

OFFICIAL REPORT
OF THE
PROCEEDINGS AND DEBATES

OF THE
CONVENTION

ASSEMBLED AT SALT LAKE CITY ON THE FOURTH
DAY OF MARCH, 1895, TO ADOPT A

CONSTITUTION

FOR THE
STATE OF UTAH.

VOLUME II.

SALT LAKE CITY.
STAR PRINTING COMPANY.

1898.

GEORGE E. MAYCOCK

OFFICERS OF THE CONVENTION.

PRESIDENT:

JOHN HENRY SMITH, Salt Lake City.

SECRETARIES:

PARLEY P. CHRISTENSEN, Grantsville, Tooele County.

C. S. RAPP, Assistant, Ogden, Weber County.

ENROLLING AND ENGROSSING CLERK:

JOSEPH A. SMITH, Providence, Cache County.

OFFICIAL STENOGRAPHER:

F. E. MCGURRIN, Salt Lake City, Utah.

SERGEANT-AT-ARMS:

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MESSENGER:

THOMAS S. WATSON, Heber Wasatch County.

WATCHMAN:

BRUCE JOHNSON, Salt Lake City.

JANITOR:

J. N. SCOTT, Salt Lake City.

PAGES:

JOHN H. THORN, Salt Lake City,

L. C. CAMP, Salt Lake City.

COMMITTEE CLERKS:

MISS B. T. MACMASTERS, Salt Lake City.

MISS HENRIETTA CLARK, Salt Lake City.

Mr. GOODWIN. Mr. President, I wish to state that since the paper was completed, two members of the committee are not quite satisfied and they reserve the right to either offer amendments or file a minority report.

The PRESIDENT. What will you do with the question of expense here, gentlemen?

Mr. VARIAN. I move it be allowed. The motion was agreed to.

SPECIAL ORDERS.

Mr. VARIAN. Are we now properly under the head of special order?

The PRESIDENT. Yes, sir. The motion to reconsider is the motion properly before the house.

Mr. VARIAN. Mr. President, as I desire to close the discussion, if there be one, I shall only make a preliminary statement. It was quite proper I thought on yesterday that a motion to reconsider should be made in order that every member of the Convention should have an opportunity to express his views upon this very important matter. In my judgment, it is the most important or at least one of the most important matters that will be presented during this session or can come before this body. Particularly was this true because I had cut off debate by moving the previous question. I did that because my amendment, or my section was coupled with an amendment, which I supposed had been disposed of on the day before, and I did not think the Convention was in a temper or frame of mind to discuss that further. Now, the question is before this house practically just as it was when it was presented yesterday, that is to say, the house can determine the question upon this motion to reconsider. I do not think it necessary, if the majority of this house are in favor of that section as it stands, or the principle embodied in it, to go through the form of reconsidering and then take another vote to vote it in. The whole matter is

open for debate and the vote can be registered and recorded here upon this motion. I am not in favor of keeping it out of the Constitution, and although I made the motion for reconsideration, I shall of course vote against it. If there shall be a majority of the members voting in favor of reconsideration, of course that will be an indication that the section is to be stricken out of the Constitution. Having said this much, and defined the position of the mover of this motion for the consideration of the Convention, I give notice that when the discussion shall cease, if there is to be a discussion, I will say what I have to say upon the merits in its closing.

Mr. THURMAN. Mr. President and gentlemen of the Convention, when this motion was made last evening, I moved that it be made the special order for today, for the reason that I hoped the Convention would be in a better frame of mind this morning for the consideration of this important question than they would have been last evening under the heat of the discussion upon the parliamentary question. I view it as a matter of grave importance, and I think that one matter is very important to be settled this morning. In order to do what is right, and reach a just conclusion, we should eliminate from this discussion everything that does not properly pertain to it. I am at a loss to know upon what theory and for what reason gentlemen consider this a partisan question. And it is because men have wrongfully considered it as a partisan question that we have not been able to view it from that standpoint that the importance of the question demands. If this question as to whether or not this is a partisan question was to be determined by the politics of the states that have adopted provisions similar to this, I think it would be determined to be a republican proposition, rather than a democratic one. Out of the thirty states that have provisions of this kind, similar in some

respects, at least seventeen of them were republican at the time they framed their constitutions and five or six of them, judging by the latest vote, have become republican since. And, gentlemen, I think we ought not to inject into the consideration of these constitutional questions a partisan feeling, unless it is demanded by the subject matter under consideration. I will admit that the question before the Convention day before yesterday was a partisan question, and the discussion before the Convention upon the substitute offered by the gentleman from Salt Lake, Mr. Richards, was also a partisan question, and for my part, I could not expect, and I did not expect, that any republican on the floor of this Convention would vote for the substitute offered by Mr. Richards. That could not be hoped for. It would have been to violate every pledge that you made to your constituents in the campaign in which you were elected as a delegate to this Convention. But when it came to vote upon the proposition presented by the gentleman from Salt Lake, Mr. Varian, a man who I suppose never imbibed a democratic sentiment in all his life, who has never been known to utter one, I will confess that I was surprised that gentlemen on this floor should conceive that the proposition that he advanced here was partisan and democratic. Gentlemen, let us look at this question as reasonable men.

Let us consider this question as we would if it were an individual affair, and I tell you this morning that you have no right, you have no power to deal with the credit of the State in any manner that you would not use your own credit, if it was an individual affair. It has been one of the maxims of the founders of the Territory of Utah, "Keep out of debt; pay as you go." And up till very recent years, such a thing as a territorial indebtedness was unknown to our people. It was only when the boom idea struck the people

of the Territory of Utah that we found representatives of the people that had the moral courage to stand up in their places on the floor of the Legislature and vote that the Territory might become indebted even for its own obligations, much less to guarantee the debts and obligations of private individuals and corporations. I do not say that the founders of the Territory pursued a policy that was absolutely wise in every respect. I sometimes think they drew the line a little too tight and too closely upon these questions, and that the Territory would have been justified in incurring some indebtedness, in order that we might have necessary public institutions. But, gentlemen, that is not this question. We are here now today laying the foundation of a commonwealth. We are just in the same position with reference to the State that we are trying to form as the father is when he is laying down maxims for the guidance of his boy in the business affairs of life, and if your boy was starting out in life, and you his parents, giving him counsel as to what he should do in business affairs, what would you advise him to do? I take it that you would tell him, "so far as possible, pay as you go; so far as possible, keep out of debt; and in every case avoid mortgaging the roof above your head to pay the debt of someone else."

Do you know, gentlemen, the effect of taxation upon a commonwealth and upon the people of the commonwealth? It is to lay a mortgage upon every vestige of property in the State. When I tell you that when you are taxed your home is mortgaged and that there is no power on earth that can defeat a foreclosure of that mortgage, except a payment of the debt, I tell you what is literally true, and I ask you this question to-day, if your neighbor should come to you and ask you for your endorsement upon his note for some speculation, mark you—for some enterprise that he was about to embark in, would

you endorse his note and in addition to endorsing his note, would you mortgage the roof above your family in order to guarantee the payment of his debt? I take it, gentlemen, that if every man in this Convention should ask himself the question this morning, "would I do that?" the answer would be no. There is not a man here that would mortgage his home and property, in order to endorse his neighbor's note for some sort of a speculation. If you would not do that in your individual case, if you would not do that in a matter that concerns you individually, I ask you what right have you, as a trustee of the State, to do it with money that does not belong to you? If you had money in your possession as a trustee, as a guardian for a ward, would you feel that you had a right to pledge that money for the debt of some one else—some private enterprise, some private corporation? I take it that every man would answer at once, "No, I would have no right to do anything of that kind with money that belongs to someone else." And yet when it comes to dealing with the public money—when it comes to dealing with the funds of the State, then it seems that men take a different view of the question. Now, I concede to the republicans on this floor that according to the principles which you believe to be correct, if you, representing the State, found that the State had money to spare and you wanted to aid some home industry—some enterprise that you believed would be for the public good, you would believe you had the right and that it would be your duty to make an appropriation to aid and assist that enterprise. I concede to you this morning, gentlemen, that in doing that, you would be acting in line with your principles as members of the republican party, and while I do not believe myself it would be right, I concede that I believe you think it right and just, and if you were elected here by the people to the Legislature, you

would have the power and the right to do that thing. But that is not this question. This question is more far-reaching than that. It is not a question of the State being permitted to make donations and give bonuses from time to time of the money that the State has in hand and under its immediate control, and that too for purposes which the State believes to be a public benefit, but it is a question of mortgaging the State, not for the payment of its own debt, but for the payment of the debt of another. And I will tell you, gentlemen, this morning, that the party who stands upon this floor and asks that this power be given unto the Legislature in the Constitution will find in the years to come, to use the language of the president of this Convention, that it will return to plague you.

When the day comes that the people of this Territory find themselves burdened with debt, when they find themselves involved to the tune of millions of dollars, when they find that all that they have left to show for that are some wildcat propositions that they thought at the time they guaranteed the payment of them would turn out for the public good, then the people of this Territory will begin to dive into the records of this Convention to find out who it is that is responsible for that condition of things that has been saddled upon the people of the State. Then gentlemen, the people will begin to examine the ayes and the noes in detail upon these questions that we are voting on here, and I say to you that so far as I am concerned on this question of giving the Legislature power to mortgage the State, my vote shall be found recorded no, and we be unto him whose vote is recorded aye. I care not whether he is a democrat, I care not whether he is a republican. I have taken the position that it is not a party question. My friend here who frequently quotes the Washington constitution, if he will do that upon this question this

morning, we may expect that he will be found on the Lord's side, voting aye to insert this in the Constitution. I do not think that Washington has ever been considered anything but a republican state and yet its constitution declares in unequivocal terms that the state shall not lend its aid to any individual, corporation, or association. To the same effect is the republican state of Colorado. To the same effect is the republican state of California. To the same effect is the state of Minnesota. To the same effect is the state of New York. And as I said before, of those states that have spoken upon this question, at least seventeen out of thirty have declared in favor of a proposition similar to this that we are contending for here this morning. And, gentlemen, I implore you to stop and reflect, and think of what you are about to do in the reconsideration of this question. Leave it in the article. Let it stand as a safeguard which cannot be beaten down, protecting the people of the new State all through the years to come against the abuse of power. And it will be abused. Temptations will come. We are living now in a crisis. We understand what it is to be in debt. We are groaning under the burdens of indebtedness, and we are paying interest for the fun we have had in the past. We may eventually pull through the conditions that we are now passing under, but the time will come that a boom idea will seize upon some Legislature in the future State, not realizing what it is to be plunged in debt, and they will imagine, just as we did here a few years ago, that every proposition any one advances in relation to the development of certain great resources here is a feasible proposition, and we will find the Legislature ready to go forth and guarantee the bonds of any corporation that will undertake it, upon certain conditions, and the first thing you know, that which looked feasible in the time of boom, when the

crisis, which ever succeeds the boom, has come, will be found that it was an airy scheme that has vanished, and then, gentlemen, the State of Utah will find that the debt it guaranteed has fallen upon its own shoulders to pay. Let us guard against that. Here is the place and the only opportunity that we will ever have to do it. Let us place this limitation upon future legislatures and the people in generations to come will rise up and call us blessed.

Mr. CHIDESTER. Mr. President, as the gentleman who has just spoke suggested that it would be a bad thing for any one to have his vote recorded against this proposition, I believe that I should give a reason why I will vote against it. I do not like the proposition any way it can be put. I think it is the same proposition that was brought in the minority report in section 3, and that was voted down for the reason that the Convention thought that it was not expedient to curtail the Legislature to that extent. Now, I submit that this proposition is similar to it, if not fully as strong as the other. In my way of thinking, that comprehends a good deal and it is a question in my mind whether the condition that we are in to-day, as a Territory, that we could carry on the State government without lending its credit, and I do not consider that it is a dangerous thing altogether to trust the Legislature. I presume that my friend who just spoke understands that part better than I do, for he has served in the Legislature and I never have, but I believe that the people send as a rule men whom they are willing to trust, and I am willing to trust them in that regard, and I believe that they will look after the interests of the State just as well and with just as good motives as this Convention will, and I believe that if we should pass this we would tie them up in such a way that they would be hampered in passing the necessary measures that would be for the benefit of the

State. I believe that it is necessary at times. While I do not believe in running in debt any more than any other member of this house, I believe in keeping out of debt, but at the same time, I know that there are times when every man will have to have credit, and to tie up the Legislature in that kind of a way does not appear to me to be wise in any sense. I think it is the same proposition that was introduced in section 3, though not in the exact language, but in the spirit and in effect, it is the same thing, and for that reason I shall vote against this measure.

Mr. BOWDLE. Mr. President, I remember of reading somewhere about an old gentleman that sat down and cried and cried over the woes that had befallen Jerusalem. The only difference between that gentleman and the gentleman that has recently taken his seat on this floor is this, that the one is crying out of the diseased imagination of his mind over terrors and woes and sorrows that are in his imagination supposed to be hanging over our heads, while the other one had a bad case of liver complaint and was blue generally and weebegone in the extreme.

Mr. THURMAN. Let me ask you a question. Was that Chidester—you are talking of Mr. Chidester?

Mr. BOWDLE. No, sir. [Laughter.] I always did believe that the democrats were afflicted seriously with liver complaint, and that it affected their view upon many subjects. This morning, I am more than ever confirmed in that belief; "but," says the gentleman, "this comes from the other side of the house and therefore there is nothing partisan about it." Gentlemen, it is the hand of Jacob, but it is the neck of Esau all the same, and you cannot divorce one from the other. Lending the aid of the State to a proposition differs in what respect from the State giving a bounty? Where is the difference? Is it not a distinction without a difference? It seems to me so. Now, the gentleman tells us that

there are thirty states in which this is the law. There are two states in which this law pertains to the extent sought to be engrafted as it is here. The state of California, in its recent constitution, is one to about the same extent. The state of Colorado is another. Outside of those two states, I do not know of a single state where it goes as far as it is sought to go here. Some places it goes far enough to say that the state shall not loan its credit; but take some of the recent states in that regard. Washington has been referred to. The Washington constitution says the state shall not loan its credit, but it does not tie up the municipal corporations and the counties. It is simply a state proposition.

Mr. VARIAN. Yes, it does.

Mr. BOWDLE. Well, I failed to find it, Brother Varian. If I do, I will take it all back.

Mr. VARIAN. Section 7.

Mr. BOWDLE. I looked over the constitution this morning and I failed to find it. The State of Wyoming precludes it so far as to affect railways and telegraph companies, but this is for all purposes. It is proposed by this bill that no subdivision of the State shall ever aid any enterprise that it is not the sole owner of. Now, I submit to you, gentlemen, that there is not a single constitution from which you have quoted or which you will quote from, that around the elective franchise are thrown such restrictions as are thrown around the elective franchise in this coming State. We say here that in all local taxation there may be a property qualification for the voters. In these other states, I think, without a single exception, there is no property qualification. Here comes up a proposition, some enterprise is wanted, a municipal corporation believes that that would be a good thing, it proposes that it will aid that by voting bonds or whatever it may be; to do that, they must have a special election; at that special elec-

tion, who will vote? Nobody but what has a property qualification, as we propose in this Constitution. You cut off from that vote all persons who have no property. You simply give to the persons who pay the tax the power to say whether or not they are willing to contribute to that. Now, isn't it perfectly fair, if the men wish to reach down in their pockets that way and aid an enterprise, that they should be doing it? Some say, "Oh, but the power of taxation is a great sovereign power." It is the sovereign power, I grant you that, but I think that when the sovereign wants to tax himself he has the right to tax himself. Therefore, gentlemen, I am opposed to this proposition. It is the same old thing dressed up in different clothes and put here before us with a proviso that the State shall not lend its aid. It means the same thing, and I am opposed to the proposition.

Mr. IVINS. May I ask the gentleman a question? I just want to ask the gentleman if those disasters that were predicted in regard to Jerusalem by this garrulous individual that has been referred to, were fulfilled or not?

Mr. BOWDLE. Well, I think that the democratic party fulfilled them on that occasion.

Mr. MURDOCK (Beaver). Mr. President, as has been said, this is a very momentous question before us this morning, and as has been said also, I can not see that it is a partisan principle that is set forth, for if it is good for one it is for another. I wish I was a good deal better speaker than I am, but you will have to put up with just such men as I am. I have got some ideas, but I lack sometimes language, and perhaps my voice is considerably impaired. Of course every man in his business erects a standard to walk by in regard to his business. Now, I am just as tenacious in regard to any agency that I might accept from individuals or from the State. If I should happen to be a mem-

ber of a legislature, I should be just as tenacious in guarding the rights of the people, as I would in my own interest, and I think every man should be, and should act prudently and wisely when they come to act in the interests of the people. That is what legislatures are for. Men are sent there as agents of the people, and I do not wish to tie them up so close that they cannot move, no more than I believe in hobbling a horse so close that he cannot get any grass. I do not believe in that. We are in a Territory. We will be, if we should be so fortunate as to become a State, an undeveloped country and there are many enterprises that necessarily will rise up from time to time.

While I believe in being very careful in regard to allowing the Legislature to use their power in regard to extending credit, I should be very careful. All men may not be so careful, and I think it is very necessary that wise provisions should be made to prevent any recklessness in regard to their course. At the same time, I do not believe in tying them up so that they cannot do anything that would be absolutely necessary to the interests of the people. There are many public interests that, although they may start out in a corporation, that prove to be a great benefit to the people indirectly, benefit the country—not only directly, but they may indirectly. I do not believe in taking money out of one man's pocket and putting it into another's unless that man should have a proper remuneration in an indirect manner. Now, while I believe to an extent—and do not wish that the Legislature shall be curtailed in regard to a bounty, or to start up some improvement—something that would be beneficial, I do not believe that it would be prudent to debar them that privilege. Now, my feelings are not partisan in regard to the labors that I am doing here, and I have yet to learn that I have even made a friend, or made an enemy of any man. I work in

the interest of the whole and for that reason I believe that we should work to the general good.

Mr. THURMAN. I will ask the gentleman, whom I know to be a prudent, careful business man, if he would mortgage his home to endorse for a friend in a speculative scheme in private business?

Mr. MURDOCK (Beaver). No, sir; I would not.

Mr. THURMAN. Would you then give the power to the State to do it as a representative?

Mr. MURDOCK (Beaver). No, sir; I would not. I believe that this principle that has been set forth, as has been said, is made more palatable by being to some extent disguised. Now, gentlemen, if we could have the construction of this principle, as has been construed by my friend from Utah County, it would be very acceptable, but here comes in the difficulty hereafter. That construction may not be put upon that provision. Consequently, there is a danger of a stringency placed upon it, that would debar that privilege, and for that reason, I should be opposed to that, but if that construction is put upon it, I would always be ready to accept it. I believe in guarding the interests of the people as sacredly as I would my own, and I have carried out this principle in my lifetime, but I cannot guide or mark out what other men shall do. Of course we all have to take chances when we call upon individuals to be agents, or to act in the interests of the people. We are the people called together as a legislative body, there to act for the people, and a man that does not act wisely in their interests, perhaps, would be greatly censured, but to put a barrier around them that would prevent them from doing many things that will bring that which would be beneficial to the people, I am opposed to it. I believe in giving them a reasonable scope in regard to using their power, and I think there will be enough men that will look at these matters

wisely and would prevent any extravagance in the matter. Failures that have occurred around us at different times—why, they are only way marks that we may be able to shun and avoid such ideas as have been advanced and practiced. — But I conceive it in this light, that this is the same principle that we have been contending over for a couple of days and it is made a little more palatable. Emphatically, I believe in guarding the rights of the people and preventing, if we have got a set of novices as legislators, why then they want to be strongly guarded against—their actions. But if we send wise men, men that know how to use their own means, and use that that they are entrusted with, why I am certain that they will be wise enough to do a proper thing in the interests of the people. We must recollect that we are not an old State, that we shall be a new State and a new Territory to-day compared to others, and our country is full of resources of various characters, and they want developing, and we have got to take hold as a people and develop this country and bring it out, but if men get wild and crazy—these booms never disturb me. While I was here at the time it commenced, yet it did not affect me. An expression that I use sometimes is this, “it takes a great deal of fuel to keep up a big flame.” I predicted that years ago, that they could not hold the matter as it stood then. I knew it was false and there are many other things that men perform that I know are false and I object to it, but I, of course, can be no pattern for other men to walk by. I believe in paying as I go. That has always been my method, and if I was a member or acted in the interests of the people or an agent for an individual I should caution him to not go into any wild speculation, but to conduct his course in a way to be perfectly safe, and for that reason, I am opposed to in anywise trammelling the Legislature, but to give them sufficient grounds

that they may in their judgment develop the country.

Mr. CANNON. Mr. President, I am certainly in favor of reconsidering this question, and would like to have seen it brought to a vote without any extended speech making. I believe it would have been better to have reconsidered it and made speeches for or against the proposition after a vote had been taken to reconsider it. That which has been said against leaving this out of the Constitution and providing for its insertion is to my mind far fetched. In many cases we have been told by the speakers who have favored the insertion of this proposition in the Constitution of the evil of debts and what a disadvantage it is to any man to go into debt. My business has been such that I have seen probably as much as any man upon the floor of this Convention the evils that attend going in debt. I believe that it is a positive injury to any man or to any community to go into debt. I think that wherever it can be avoided it should be avoided; that no man is justified under ordinary circumstances in borrowing money and becoming financially involved, but there are times in the history of men as there are in the history of people when circumstances justify that which is done, and when it is justifiable in my opinion in incurring indebtedness. We have been told that it is not right to take the strong hand of the law and exact from the poor taxes, and with those taxes pay for something that has been pledged for the credit of the State or of the municipality for the benefit of private enterprises.

We find that it is not particularly the poor who object to a thing of this kind, but it is the wealthy. It is those who have the most property who are most anxious that nothing shall be done in the way of pledging the credit of the State or in the way of granting bounties or anything of this character. I claim that the poor are not so much afraid of this matter as those who have

large capital, and the reason is that capital is affected more by it. I think that if the power is given to the State as it would be given by leaving out all restrictions upon it, that that power should be used very carefully. I do not think that it would be right to pledge the credit of the State for anything unless the enterprise for which that credit is pledged will be a benefit to the people, but at the same time I think that under some circumstances it would be right to pledge the credit, to pledge the credit of a town, of a city, of a municipality, for an enterprise that would be a direct benefit to the people and would bring to them more benefits than the amount that would be involved. Our friend from Utah County appeals continually to different men and asks this question, "would you mortgage your home for the benefit of a neighbor? Would you go into debt and mortgage the roof over your head to benefit some man in his private enterprise?" But he does not tell you that when you do that, when you pledge the credit of the State, that it binds equally upon your neighbor and upon yourself, that if it is to benefit both, it is not binding upon you any more than it would be upon that other man. I say there are times in the history of men when they should pledge their homes, when they should pledge all that they have of an earthly character, in order to carry out enterprises that may be necessary for them to live. There are men, who during the year past have scarcely had food enough to eat. There are men who are honest, willing to work, anxious to work, and who cannot find employment. I say under those circumstances, if my neighbors were to come to me, and I was in that position, and say, "let me join you in an enterprise; we will have to mortgage our homes, for we are in a starving condition; we have no work; we must procure capital with which to enter into some enterprises, and if we place a mortgage upon our property we can go on

and procure for our families the necessities of life." I say under those circumstances, it is the part of wisdom, it would be the part of manhood to mortgage the home over your head and to go into the enterprises by which you would furnish employment for your family and your neighbor, that you would be justified in joining with him and the two together in risking that which they had in order that they may stop the stagnation that exists and start out with something that would bring benefit to the people. We are appealed to continually as if this were for the benefit of the rich, as if it were for the benefit of the classes, as if this provision would hamper men of that character.

I call your attention to the fact that a short time ago in California, when Los Angeles desired her representatives to have power to create certain indebtedness or to have the power to issue bonds—I do not know the exact form in which the question was presented—the vote was very even in that legislature for and against the proposition that was presented. I claim that it would have been a positive advantage to the people of Los Angeles, had the money been invested wisely, to have had that power granted to them, because they could have gone on with the enterprise and given to their people employment. It is not sufficient that men might be educated. It was stated by one of the gentlemen upon the opposite side, the other day, that it was proper to educate men with public funds, because, said he, by so doing you insure the stability and safety of the state. I say that it is proper also when you have the means, when you have the credit, to give men employment, because it is as much a necessity that men should have work as that they should have an education. What will you do with a man who has an education if he has not the means by which he may earn that upon which he may live? An education

will not keep him. As our friend from Uintah County said the other day, it would be very poor food—a very slim article of diet indeed, if you were to try to subsist upon this. I claim that the credit of the people belongs to the people and that if they choose to use that credit they have the right to use it, and there is no reason why we should limit and place here in the Constitution a provision which would prevent them at any time from using that which they have. In many cases poor people have nothing particularly except that which by combination and communions they can produce. This is more sweeping in its terms. I call your attention to the language. (Reads.)

I claim that under that, if a hundred men to-day were to say, "We will go out and found a city," all of those men having an equal interest in it, I claim that if they were to go out and attempt to pledge their corporate credit for the building of a railroad, the building of a canal, the building of any public enterprise, that they might unitedly feel that was for their good, they would not be permitted to do it. I claim that they should not be hampered in those circumstances. There is a growing spirit of freedom in the people that has been growing for hundreds and thousands of years, that after awhile it will be found that the people have the right—those who produce the wealth of the country and the benefit of that which comes from their exertion, and from their existence, that they have the right to use it to build themselves up, to build their communities up and to do that which will be for their benefit.

This is a provision, I claim, that if eliminated, would leave the Constitution in favor of the people, who would have the right, through their representatives, to direct whether or not they wished the credit used for any purpose. I claim that certain enterprises require the credit of nations, that they require

the credit of the state, that they require the credit of municipalities. We will take the instance of the Suez canal, which cost millions and millions of dollars. The credit for that was to a great extent pledged by the government of France. The people of France directly obtained a benefit greater than the amount that was pledged from the day that that was built to the present time. They have had the benefit that has come from it.

MR. CORAY. Was not that the Panama canal?

MR. CANNON. The Panama canal is being built, and the fact of dishonest men being engaged in the Panama canal does not make any difference as to the righteousness or unrighteousness of the proposition before us. If you wish to refer to that, go to New York City and you might just as well attribute to the democratic party there the corruption which existed there and the ring that existed there as to attribute the Panama swindle to the principle that I have been speaking upon. I claim that the state has the right to use the credit that belongs to the people for the benefit of the people. I claim that it has the right to build railroads and use the credit for that purpose where the people will be directly benefitted by it. I claim that to-day, if the United States could go ahead with the project that is on foot by which the canal could be constructed at Nicaragua, the people of the United States would be benefitted more in dollars and cents directly than the government will have to pledge itself for in order to secure the building of that canal. I agree with my friend from Beaver County that the condition which exists in this Territory and in some of the states and territories is entirely different. I desire to call attention to the fact, as stated and acknowledged by every speaker upon this floor, we are a community that needs wealth—needs capital to develop resources which we have, while in the older com-

munities there is a superabundance of wealth. Their resources have been largely developed; they are overcrowded, and they did not have the same difficulties to contend with that we have. Take the case of New York, which has been cited here, and what is the condition there? Why, we find about a year ago now they had in New York, in the banks of the city of New York alone, over seventy million dollars in excess of the legal requirements of their reserve, and their reserve amounts to hundreds of millions of dollars more. That was the condition that existed there, and in that case I believe it is a wise provision to prohibit the state from lending its credit, yet under certain circumstances and conditions the people of this country in Utah Territory, it is wise to leave to them and to their representatives the right to pledge their corporate credit, if they see fit so to do, or to pledge the credit of the State, if they see fit so to do, in order that internal improvements may go on. I believe that it should be done wisely. I believe that it should be done carefully and that nothing should be done that would be liable to place them in a perilous condition so far as their credit is concerned.

The gentleman from Utah County said that the record that is made here will be one which will come back to vex the delegates upon this floor. So far as I am concerned, I am willing that my record shall be made upon that point. I do not vote now for giving the credit of the State or of any municipality of the State to any enterprise, but I say I am willing to leave it to the people and to their representatives that they may do as they see fit, and if the people do not believe that that is correct, I am not a candidate for any office. I may never be a candidate, but if I am a candidate, it will be upon the ground that the people have the right to use the credit that belongs to them for their good and for building up any enterprise they may see fit to endorse.

Mr. JAMES. Mr. President, this matter is in a little different form from what many here are aware of. I had no idea when this discussion began that it would take so wide a scope, and I am afraid it will only just cause going over all the ground again.

Mr. ROBERTS. Mr. President, when my friend from Utah County was so quietly discussing the question this morning and the spirit of peace seemed to be moving over this assembly, I sincerely trusted that he was right and that this was not and would not be made a party question. I remember a few days ago asking the gentleman from Iron County—indeed I think it was only yesterday, if the question of loaning the credit of this State in aid of private enterprises was made a party issue in the campaign last fall, and I received a statement from him to the effect that it was not and I really hoped that it would not be now made a party question upon the floor of this Convention. But, sir, my hopes and wishes, I believe are to be disappointed. I notice that in the efforts that were made, I presume by party whips, to bring in absent members last evening, in the minds of gentlemen upon this floor there was a party question at issue and all the forces must needs be present in order to carry a party measure. Bad as I believe republican doctrine to be, I could not bring my mind to the conception that it is as bad as it is, if my republican friends are not only in favor of paying money out of the treasury in aid of private enterprises, but are also determined to have the credit of the State at their command for the same purpose. As I stated yesterday, I am of the opinion that if that issue had been thrown in sight in the last campaign, the results of the election, sir, would have been somewhat different. Not only the action of members upon this floor yesterday and this morning proclaimed that this is a party issue, in

the eyes at least of the majority of the republicans upon this floor, but in the estimation of the organ of that party in this Territory, it must be a party question. An editorial in that paper of to-day's issue says:

We regard the re-opening of the bounty fight yesterday as exceedingly ill-advised and unfortunate. It came, too, from a source least to be expected—a republican delegate. It is impossible to see anything to be gained in a movement like this, except to play into the hands of the democracy. No possible protection is to be had in this move.

Mark you this:

It is a clear abandonment of the republican position on the question and an indefensible attitude to take before the party. The object sought to be obtained is chimerical anyway, and could not be reached by any sort of prohibition. It will be the part of wisdom to allow this question to remain settled on the basis of Tuesday's vote.

Now, sir, I think from the attitude of members on the floor of this Convention, the statement made by the organ of the republican party, that hereafter the people of this Territory will know that not only is the republican party in favor of paying out money from the public treasury in aid of private enterprises, but they want to have at hand the entire credit of the State to be used, if they think proper, for the same purposes. I am exceedingly glad that that fact is now clearly to be developed and that there will be no opportunity of dodging the issue from henceforth. And I take it, sir, that in the forum of the people there will accrue from this attitude a very great advantage to the party I represent. The day when some bold, war-like chieftain could call around him spirits of a like disposition, and invade some neighboring state, enslave the inhabitants, and parcel out their lands, the larger portion to himself, and the rest to his retainers, has gone by. But, sir, that disposition of making conquests over his fellowmen has not been eliminated from the hu-

man breast. In this particular as in many other particulars,

Our polished manners are a mask we wear, and at the bottom barbarous still and rude,
We are restrained indeed, but not subdued.

And this determination to feed upon the labors of the masses and to prosper at their expense is still in the human breast, only it makes its appearance in our age and in our civilization under new forms. Men possessed of great wealth and feeling the power that wealth gives them forget right and are determined to increase that power, even if it be at the expense of the masses, and hence, sir, with eagle eyes, these men associating together in companies look the whole land over where they may launch enterprises, and in addition to the advantages of entering a new country and monopolizing its resources—not satisfied with the advantages that can come from that alone, they seek the state governments as allies to their enterprises and make the people, through the agency of the government, contribute to the amassing of still more and more wealth. These, sir, are some of the principles and some of the facts that need to be taken into account when we are dealing with so important a question as that now before us, and I want to call attention to what has been called upon the floor of this house the trend in modern constitution making. And I take it, sir, that the spirit as exhibited in the formation of our late constitutions is exceedingly instructive. It gives evidence of an evil from which the people are seeking to free themselves. My friend from Utah County noted the fact that thirty states in this Union had substantially this provision in their organic statement. The gentleman from Salt Lake (Mr. Bowdle), however, questioned his statement on that subject, as I remember his remarks, claiming that there were only two states that went so far as this proposition before

the house proposes to go, citing as I remember it, California and the state of Wyoming. I will call the gentleman's attention at least to one other state that goes quite as far and indeed I think farther than this proposed section goes. In article seven of the New York constitution, lately revised, it is stated that the credit of the state shall not in any manner be given or loaned to or in aid of any individual, association or corporation, and then in article 8, section 10, it goes on to say that no county, city, town, or village shall give any money or property, or loan its money or credit to or in aid of any individual, association, or corporation, or become directly or indirectly the owner of stock in or bonds of any association, or corporation, nor shall any such county, city, town, or village, be allowed to incur any indebtedness, except for county, city, town, or village purposes.

I take it, if I can remember the scope of the amendment offered by the gentleman from Salt Lake, it falls very short of going so far as the provision in the state of New York goes. I have not been able of course in the short time that we have been assembled this morning to go through all the state constitutions, but since the gentleman is so very widely mistaken, at least so far as the state of New York is concerned, I confess that I have but little faith in the carefulness of his examination of all these matters, and if I am not mistaken he will find the provisions as stated by my friend from Utah County substantially the same in thirty of these states, seventeen of which are republican states and but thirteen democratic states. But, sir, what I want to call attention to is the formation of the last four constitutions, that of North Dakota, South Dakota (both of which are republican), Montana, (that I believe was a democratic convention that formed that constitution,) and Washington (also republican).

Now, sir, the reason why provisions

limiting the power of the Legislature in these particulars of which we are speaking, are not to be found in the old constitutions, is that the people were not then grappling with corporate power as they are to-day. Their liberties were not endangered by those powers, as the liberties of the people are endangered to-day by them. And hence, you do not find these provisions against using the credit of the state in the older constitutions, but you do find them in all the constitutions of recent formation. It is a grand spectacle that that we may observe in this Territory. A people just emerging from territorial vassalage to the prominent and proud position of a sovereign commonwealth in the American Union. The people, however, are scarcely enthusiastic at the prospect. You may almost see them shrinking from taking on the larger obligations, and that chiefly because of the increased burden of taxation that will come to them by reason of this change in their government. Their treasury will contain no revenue upon which you may place your hand to pay bounties in aid of private enterprises. It will require all the revenue that can be raised by reasonable taxation to meet the increased expenses of the new government. You bounty favoring gentlemen, tell me, do you see that? And seeing that you have no way of spending the public moneys in aid of private enterprises, which shall result in the building up of private fortunes, do you see that, and seeing that you are now determined to have the credit of the State in aid of such purposes? If so, you shall at least find a strong minority at the threshold of the new commonwealth beating back the invading host that would fatten upon the labors of the people. [Applause.]

The air is full of schemes for the use of the public money, and for the very reason that we are a new country, and our resources unappropriated as yet, should be the very reason why we

ought to be careful that we do not make it possible for foreign corporations—people living outside of our boundaries, to organize associations and companies that will come here and place their hands upon the resources of this Territory and leave the bona fide citizens thereof no opportunity in which to develop the splendid sources of wealth in our country hereafter. Slower growth, more permanent and the blessings thereof more equally distributed among the people, is the thing for which I would contend. My friend from Utah County this morning called attention to the fact that it has been the policy of the leaders in the Territory in the past to be conservative in regard to indebtedness. I can easily demonstrate the truth of it if it needed demonstration. In 1880 the public debt, state, county, and municipal, amounted to but eighty-one cents per capita; in 1890 it amounted to \$3.69 per capita. But, sir, we have been lunging and plunging during the last four or five years in the combined debt, of State or Territory, county, and municipal, according to statements made a few days ago upon this floor, until it amounts to nearly four millions of dollars in this Territory. I am informed by my friend from Weber that if you add to this indebtedness our annual interest, which is a burden upon the people of this Territory, already amounts per annum to about five hundred thousand dollars.

Mr. MORRIS. Has any of that indebtedness ever come from assisting any private enterprise or any corporation?

Mr. ROBERTS. No, sir; and I do not speak of it as resulting from that, but I speak of it, sir, as I think that the people will look at it, and they will be loth to leave it possible to increase that indebtedness. They will shrink from it, being a conservative people, and that is the point I wish to call your attention to. That is a burden that we already have. And now our burden is to be increased by the new government. No

one disputes that. And then in addition to that, you want to leave the Constitution in such a shape that every company that chooses to launch an enterprise in our land can go to the Legislature of the State and ask, and perhaps obtain, the endorsement of the State upon its bonds, and it is an iniquity—an evil against which I wish to raise my voice and if possible persuade enough of our republican friends to join with us in warding off the blow that threatens the prosperity of the State. Why, gentlemen, let me appeal to you from another direction. If you insist on keeping out this provision from the Constitution, you are only serving notice upon the people of the proposed new State that the only safety for them will be to entrust the government of the State to the democratic party, who will not use the credit of the State in aid of building up private enterprises. Our friend here yesterday wanted us to defer this discussion until we should get upon the stump next fall, and in dramatic tone informed us that he would say then, "Lay on, Macduff, and damned be he who first cries hold, enough." Now, sir, the business life I lead has precluded me from refreshing my memory in the English classics, but as I remember the story of Macbeth from my schoolboy reading, I think the gentleman was exceedingly unfortunate in assuming the character of Macbeth in that connection, for the reason, sir, I believe Macduff did lay on. That desperate language, sir, did not come from re-enforcement born of sweet hope, it was rather resolution that the blood-stained king had gathered up from despair. He had listened to that voice which deceives us in honest trifles to betray us in deepest consequences. He had allowed himself to think, sir, that the devil could speak truth. He had been deceived in every promise made to him by the false spirits whose counsel he had followed. And now, at last, confronted by the man whom he had most

wronged, he defied fate and said, "Lay on Macduff." Macduff did, with sturdy blows, till the blood-stained tyrant, usurping king of Scotland, lay helpless a corpse at his feet. Is the language of the illustration prophetic of the next campaign? [Applause.]

Why, sir, you refuse to engraft into the Constitution this provision, I tell you in answer to some gentleman who whispered Waterloo a few days ago that we have been fighting no Waterloo. It was the first battle, or the first part of the battle at Marengo. You remember, gentlemen, how the French columns, hour after hour, were hurled upon the Austrian forces and how they were broken and driven back until the first consul of France, seeing his broken columns all around him turned to the dauntless Desolles. "General," said he, "what do you think of the battle?" "Why," replied Desolles, "it is lost completely. But," said he, "it is only 2 o'clock, we can win another before the day closes." And with that he led his corps in the attack. Another general, Kellermann, charged at the right moment upon the flank of the enemy. The Austrian line was broken and victory was once more faithful to the flag of Arcola. So, sir, it shall prove in this issue. You shall find a Marengo and not a Waterloo that we have been fighting, and before the campaign closes, in another issue you shall find that by 5 o'clock, the democrats have gained a victory and a democratic State will appear in prospective. [Applause.]

Mr. EICHNOR. I would like to ask Mr. Roberts two questions. First, is this not a partisan question?

Mr. ROBERTS. I think, sir, that it ought to be. I have tried to think it was not, until the organ of the party announced that, "it is a clear abandonment of the republican position on the question, an indefensible attitude to take before the party." And especially the partisan movements that were

made last night to get in enough republicans to change the result of the vote.

Mr. EICHNOR. The second question is, did you discuss it from a non-partisan standpoint?

Mr. ROBERTS. I could not discuss it from a non-partisan standpoint for the reason that our friends have made it partisan question.

Mr. EICHNOR. Then do you expect the republicans to vote for it?

Mr. ROBERTS. I hope, sir, that there will be enough republicans who will have patriotism at heart to guard the State against future evils that they will vote for this measure.

Mr. GOODWIN. Mr. President, day before yesterday we had a roaring lion here. We downed that lion, caged him, and thought we were done with him. Yesterday a tiger was presented, but he was assailed and we were called upon to see that he had no claws. He had them concealed in the cushions of his feet, that he had the most delightful stripes in the world, and that his purr was precisely like that of the house cat. There could be no harm in him. Mr. President, this is simply a partisan question. I do not mean it in any small or offensive sense. There is no democrat can present anything here that seems fair, even if it is democratic, that shall not have my hearty support, but you can see by the whole tenor of the argument, that this is considered a party question. The only thing that astonishes me is that a gentleman like the last speaker is so fearful if this goes on, as it ought to, it will result in making this a democratic State. I did not expect so much candor from him, as to intimate to us in advance the calamity that that would be. [Laughter.] We are told that thirty states have this in their constitutions, and that seventeen of them are republican. Why? For just exactly the same reason that if 5 or 6 or 8 republicans join the democratic votes here, and put it into the Utah Constitu-

tion, and next week or next year New Mexico has the making of a constitution, gentlemen of the same school will rise up and point to eighteen republican states that have put it in their constitution. When constitutions are made, the majority of one or the other of the great parties is always small, just as we have it here, and if four or five men break away from the organization and join with the other side, they carry a majority, and the party that is in the majority has the credit for it. Mr. Thurman, my particular friend from Utah, drew a picture of the sufferings of those who under this would certainly mortgage their homes, that almost made me weep. He told of what had already been done in this Territory and saying we were paying for the fun we had had. How are we paying? Let us get down to actual facts. In this city the entire city tax for all purposes, conducting the government, paying interest, etc., except the schools, is six and one-half mills, that is six dollars and a half on a thousand dollars. The death rate has been reduced because of that more than fifty per cent. The death rate from diphtheria and scarlet fever have been reduced seventy per cent.

If the gentleman was living here, would not he mortgage his home to be insured exemption or two-thirds exemption from those two diseases, where his little children were playing about him? If he had a homestead worth a thousand dollars, would not he pay \$6.50 insurance on that? See what all this buncombe amounts to when you come down to actual facts. But there is another point—a very grave point. I am not opposing this new proposed section because I am in favor of this State, when it shall become a State, mortgaging itself to increase the riches of private corporations, but I take higher grounds. I say that this Convention has no right or business to impeach in advance the integrity of the

Legislatures or the intelligence of the people. I say it has no right to say that the State Legislature shall have the power to say to Salt Lake City, "you shall not use your money for any public or private purpose. You shall not join in any enterprise that you want to, because in the old states, where all improvements are made, where all resources are developed, they have got so that they are afraid of corporations." That is why I am opposing this measure. If it was confined to the State itself loaning its credit, there is but one thing that would prevent my supporting it.

I see a possible time in the future when it will be necessary for this State in order to give its poor employment possibly to lend its aid, under proper safeguards, to establish reservoirs, or canals, to give land that is now a barren waste the vitality which comes of water, and give the poor employment and at the same time to add to the taxable property of the State. My friend from Weber yesterday drew a pathetic picture of the awful loss which the United States has sustained because of the Pacific railroad debt. I did not look for that. The property is still good for the debt. The government can get even on their settlement, but suppose that it were a loss, what then? The government has already received back five times that investment. It has received it back in the decreased expenses in carrying the mails and army and munitions of war of the nation. It saved it in a hundred Indian wars that would have been. It saved it in twenty shapes. But that road was built for a double purpose. The first was to hold this Union together. Some of us have been in the west for years and years. We could not receive a word from home oftener than once in two weeks. There was a universal demand from Oregon, from California, and from Nevada, for that road. The government gave away lands which were worthless to it. They

also guaranteed a loan and what is the result? This building that we are in to-day is one of the results. The fact that all across this continent the frontier has been pushed away to the seashore is another of its results. Of all the comparisons, except when men want to appeal to the prejudices of unthinking and unreasoning partisan men, they never should bring up the Pacific railroad subsidy as a proof of the soundness of their position.

We were told that yesterday the party whip was cracked. There was no sound in that crack, but there was a democratic crack over in the other corner when this vote was declared carried on this section. I did not see one democratic face that was not smiling. I saw very few democratic hands that were not clapping. That shows whether they thought it was partisan or not. My friend from Salt Lake City, (Mr. Richards) the other day asked me how I knew that a road west to Deep Creek would have held up the real estate in this city and would have benefitted this part of the Territory particularly, and the whole Territory generally. I was sorry that he did that, because it confirmed the suspicion, which is more or less prevalent, that sometimes very eminent lawyers forget to inform themselves on outside matters. When he asked that question he gave away the fact that he had not carefully read the papers this last four or five years, and I hold that no public gentleman, no gentleman of any class, can afford to get along without reading the daily papers, some of them for the instruction they contain, some of them for the horrible example they set. But I will ask him a question which will come right within his comprehension. I will ask him if this city ten years ago had had the power and had built a railroad from here to Coalville, and had delivered coal to the people, rich and poor alike, in this city for two dollars a ton, if they would not have had back their money four or

five times and have owned a property that would have paid them better interest than anything they have got in this city?

Mr. RICHARDS. I will say this, that is certainly true. But I will ask the gentleman how he knows that if a railroad had been built under the circumstances he suggests, that it would not have formed a combination with some other railroad and eventually the people have been buncoed out of their money, as they have been times innumerable in this country?

Mr. GOODWIN. Mr. President, I heard a story once. I will get to the answer to you in a moment. I heard of a proposition that was made to one of the most distinguished Presidents of the United States that a certain thing should be done, for the protection of men under certain circumstances. His reply was, "I think it would be a good idea because it would be a complete protection in a certain event." He says, "I never heard of a man having a baby, but he was not assured."

Now, if the citizens of this State had been going to give a subsidy or subscribe to a railroad, with the experience before them, I presume that they would have fixed it so that it would forever have been under their control, or the provision against fooling with it would have been made so strong that it could not have been done. Mr. Richards is a lawyer. He could have drawn a contract that would have protected the city and the citizens and all that sort of suggestions are simply giving up the idea that the people have not sense enough to handle their own business unless a provision is put into the Constitution preventing them from doing what they wanted to.

Mr. FARR. If Mr. Goodwin will allow me to make a suggestion, it is this. If the gentlemen here expect to go to Logan this afternoon, it is time they were making a move, and I submit, Mr.

Goodwin have the first chance Monday morning to finish his speech.

Mr. GOODWIN. I have got through nearly all I wanted to say, and I suggest that while I believe several of these gentlemen ought to go to Provo instead of Logan [laughter], that this be continued and that it be made a special order for Monday morning.

Mr. CREER. Mr. President, I move that we now adjourn until Monday morning at 10 o'clock.

Mr. JAMES. Mr. President, this very ground is embodied in the report of the committee on incorporations, which will come into this Convention, and if you inject that—

Mr. VARIAN. I object to any such business as that being interjected now.

The motion to adjourn was agreed to.

FORTY-THIRD DAY.

MONDAY, April 15, 1895.

Convention was called to order at 10 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by delegate Farr, of Weber.

Journal of the forty-first day's session was read and approved.

The following petitions were presented asking that the question of woman suffrage be submitted as a separate article to a vote of the people:

File No. 294, signed by S. A. Kenner and 121 others, from Salt Lake.

File No. 295, signed by Thos. Durham and 52 others from Parowan, by Heybourne, of Iron.

File No. 296, signed by W. H. Hatch and 5 others, by Allen, of Piute.

File No. 297, signed by Reuben Parkes and 65 others, from Logan, by Roberts, of Davis.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 298, signed by Martin Woolf and 168 others, from Millville, by Hart, of Cache.

File No. 299, signed by W. C. Christensen and 61 others from Salem, by Engberg, of Utah, by request.

File No. 300, signed by W. H. Gardner and 202 others, from Salem, by Engberg, of Utah, by request.

File No. 301, signed by Laura J. Taylor and 66 others, from Fremont, by Robison, of Wayne.

File No. 302, signed by Francis H. Smyth and 543 others, from Fountain Green, by Jolley of Sanpete.

File No. 303, signed by Elizabeth Yates and 148 others, from Scipio, by Thompson, of Millard.

File No. 304, signed by Jacob S. Boreman and 260 others from Ogden, by Chidester, of Garfield.

File No. 305, containing 727 names from Salt Lake County; 196 names from Emery County; 655 names from Salt Lake City; 535 names from Utah County; 32 names from Washington County; 33 names from Pleasant View, by Chidester, of Garfield.

Ordered filed.

Mr. Squires, of Salt Lake, presented file No. 306, signed by B. B. Quinn and 12 others, from Bingham, opposed to woman's suffrage in any form.

Ordered filed.

Mr. Miller, of Sevier, presented file No. 307, signed by A. C. Todd and 56 others, from Utah County, and file No. 308, signed by Clarissa A. Hoyt and 103 others, from Kane County, favoring the submission of the question of prohibition as a separate article to a vote of the people.

Referred to committee on schedule, future amendments and miscellaneous.

Special orders.

The PRESIDENT. This brings us to the question of the reconsideration of the vote on the proposed thirty-sixth section.

Mr. SNOW. Mr. President, I move you that it be the sense of this Conven-

tion that Mr. Varian now close the debate.

The motion was agreed to.

Mr. VARIAN. Mr. President, were it not that this question has been much misrepresented and is, I apprehend, much misunderstood or apparently so, I would not undertake to consume the time of this Convention further in this discussion. It will be remembered, however, that while through the medium of the public press as well as by speakers upon this floor the proposition which I affirm here has been attacked, we have heard comparatively little in support of the proposition. It was hurried through two or three days ago, because it was sought to complicate it with other matters, which could but serve to cloud and prejudice the consideration of this question. In accordance with fairness and justice, however, an opportunity for full and fair discussion has been given, attended by the right to recall the action of the Convention in adopting the section under discussion, if the majority of the members shall be so advised, and in the beginning, before I shall forget it, I desire to call the attention of every member on this floor, who is favorable to this section and to its incorporation in the organic law, to the fact that there is no necessity for such a one to vote for a reconsideration, which, if the majority of the Convention shall determine, would only result in the prolonging of the debate the possible, opening up of the question to other amendments and the taking of another vote. Fairness and justice have been complied with when the opportunity is afforded the members of the Convention to express their views and to vote aye or no upon the reconsideration. If there shall be a majority of this Convention voting to reconsider this vote we may take it, I apprehend, that it means that this section is to be stricken out of the instrument and that there will be no necessity to further prolong the matter. In other words we may settle it now by this

vote which shall be taken, when I shall have concluded.

There has been, I regret to say, injected into the consideration of the subject a question assumed to be of a partisan character. I deprecate the fact that my friends on the other side seem to find it necessary to take up a supposed challenge by my party associates and to treat the question from that standpoint, as a partisan one. On Saturday my distinguished and eloquent friend from Davis County directed the attention of the Convention to the announcement made in one of the papers of the city, which he declared to be a republican organ and assumed that its announcements and declarations were all sufficient to declare and affirm articles of republican party creed. I deny both propositions. I deny that this section in any degree, directly or indirectly, is antagonistic to any line or principle of republican party faith. I deny the right of any paper or any party caucus on this floor to determine what is and what is not a tenet of my party faith. I would remind my friend that he was too hasty in assuming, because of that declaration which he read here on Saturday, that the republican party was behind that declaration. He was mistaken when he assumed that the paper was a party organ, because it has and does disclaim that whenever occasion shall serve.

My party principles are the result of some thirty years' reflection and study. They are not taken from the declarations of caucuses nor of interested newspapers; they go further and deeper. They begin with the great principles which were announced decades and decades ago. I undertake to say that there is no principle in this section involving this question of bounties at all, but if there were, I would say to my friends who are insistent about republican doctrine and are so fearful that perchance in this Constitutional Convention the republican party shall make a mistake concerning

its principles, that the bounty principle never was a fundamental cardinal doctrine of republican faith. It is but an incident to the great underlying doctrine of protection. The system of bounties did not begin with the republican party. That was commenced and engrafted upon the statute books of the United States, in the very second law passed by the first Congress in 1789, and it was continued through the years for forty or fifty years by special act and by general law. In those days it was deemed not a question of party creed, but a question of American protection and development. But, sir, if my friends may deem that at this date it has become so engrafted in the republican faith that it is no longer an incident, but of the very substance, I want to call their attention to the fact that they are overturning the declaration of the party in its national council which may be and should be higher than the declaration of any newspaper writer. In 1880 the republican party in national convention assembled made this declaration: "No further grants of the public domain should be made to any railway or other corporation. Further subsidies to private persons or corporations must cease." And on that platform Mr. Garfield was elected to the presidential office. To my knowledge it has never been changed or modified. Do not misunderstand me. I do not mean to say that that prohibits the exercise of a wise legislative discretion in the distribution of public moneys for the encouragement and protection of the people's productions. I mean to say that it serves to mark the distinction between all that which has clouded the discussion of this question and the sound argument which is in support of a very different and distinct proposition. They are dealing now with subsidies, pure and simple. We are dealing with a question of loaning the credit of the State or any of its subdivisions for the advantage and the building up of enter-

prises, not public in their character. Now, the question underlying this matter, sir, has agitated and disturbed the people of the American commonwealths for the last thirty years. Amidst suffering, disaster, and peril, they have come up out of the heresy of former times, independent of party affiliations, and with a unanimity that is marked to a degree, they are incorporating the prohibition in their organic law. Every state that has been admitted into this Union since 1876, commencing with Colorado, has engrafted upon its organic law just this provision. Colorado, Montana, Idaho, Wyoming, North and South Dakota, Washington and California, all of them in almost the very language, have placed irrevocably on their organic statutes this prohibition that we seek to engraft here.

It was suggested, sir, during this discussion, possibly in the best of taste, possibly not, that I stand here emphasizing and affirming my honest convictions on a great public question, was not representing my people, that I was possibly a delegate at large, and the inference no doubt that I was not representing the people of this community. I want to say to you, gentlemen, that I know that I am a little closer down to the rank and file of this community than some others that I wot of. I am not mistaking the clamor and call of interest boomers and speculators for the voice of the people. It is not the voice of the business men as a whole, of the property owners and taxpayers as a whole, of the great rank and file of the community, who live and maintain their little homes and pursue their small avocations and businesses, that you hear here. If I might be permitted to advise, I would suggest we get our ears a little lower down, a little closer to the ground, if we shall desire to understand and appreciate what the people really want. It is said here, "Why are you afraid to trust the people? This is a country of majority rule, and when the

majority, after consideration, shall have announced its decision, it is the duty of all good citizens to bow in submission." Quite true. It is a general rule, and like all such, it has its exceptions. One exception is—a very pronounced and marked exception—that no majority, however powerful and strong in wealth or numbers, may deprive or despoil a fellow citizen in the minority of his property. The application of this principle has not been made in many instances during the session of this Convention. There have been many, or at least a number of propositions, which some of us thought might well have been left to the decision of the people, expressly to consider the questions which, in the opinion of the majority on this floor, have not been permitted to prevail, but the truth is that the people distrust themselves. What is the object of a constitution? It is not alone to declare what everybody knows to be self-evident facts concerning the rights to liberty, life, and property. It is also to include prohibition against future mistakes and wrongs that may be made and committed by the people. They distrust the temptations of the future. They distrust the power of the majority, because that power sometimes is but typical of tyranny. Professor Brice, in speaking of this tyranny of the majority, in his work on American commonwealths, says: "A majority is tyrannical when it decides without hearing, and when it enforces men to contribute money to objects which they disapprove, and which the common interest does not require."

It has been said here, "people have a right to do what they will with their own." I deny it, in its application to the government of the people. It is an utter misapplication of a principle which may properly be applied to the relations of the citizen in private life and in matters which concern only himself in his business, and in that sense in the re-

lations he occupies towards his fellows. But in its application to a governmental question, I deny it. It is no doctrine of republican faith. It is no doctrine of democratic faith. It is no doctrine of any creed or party, except that of the tyrant. Why is it, my friends, that with a unanimity that has as yet been unbroken, during the past thirty years, the people of every state have put with emphasis in their organic law this prohibition, against this exercise by the majority in the future, of this alleged right to dispose of the public credit and the public funds? It is because of the wisdom born of the bitter, the blighting experience of the past. I need not go back to the history of the Pacific railroads. I quite agree that that illustration is not particularly applicable nor illustrative of the matter in hand. The Pacific railroads were built because of a great public necessity, probably they would have been built by the moneys of the government altogether, if the treasury of the United States had not at the time been bankrupt. It was in great part for the time wholly a war measure and I do not cite or illustrate my position by any such argument as that. But there are states to which we may turn our attention. There are commonwealths, the history of which is calculated to make us hesitate long, ponder well and deeply over the gravity of the situation. Kansas lost herself, her people lost themselves in the wild vortex of speculation. They were precipitated into a frenzied financial debauch, and her people were persuaded to vote the revenues and resources of the state for future years in countless thousands of dollars in the aid of great public enterprises and undertakings. And to-day the history of that state has been that they are disappointed in their hopes, failing in their aspirations day by day, and week by week and year by year the people of that tax burdened state have been going down into poverty, if not into

want, and by hundreds the farmers of that rich state have been abandoning their farms, taking their wagons and their teams, their families and their little ones, with such household effects as they might have been enabled to save from the tax gatherer and the sheriff, and they have departed from the soil of Kansas forever, leaving behind them this miserable record of misappropriation and misrule. There is one county in Kansas to-day where for years the county commissioners have been, as soon as they were elected, taken to the county jail under the mandate of the Federal court, because they could not—they did not dare, in defiance of the sentiment of their neighbors and of their county to make a tax levy for the payment of a bonded indebtedness or the interest thereon, which the people were convinced had been incurred in wickedness and fraud, and so they go and their places are taken up by others, honest, brave citizens of the county, content to serve the people by refusing to do what technically the law requires they should do, but which the public sentiment of their people forbids them to do, and so they serve them within the walls of the county jail, until their terms have expired, when new men, just as patriotic, just as self-sacrificing, step forward and by election, take their places.

I am informed by my friend from Juab County that the county of Douglas, which includes the city of Lawrence, has a bonded indebtedness of a million and eight hundred thousand dollars. Over in Missouri, in some localities a similar state of affairs exists. In 1889, the county commissioners of Sedalia, I think it is, were sentenced for contempt to imprisonment by the judgment of the circuit court of the United States for similar reasons. I was reading that decision in the Federal Reporter on yesterday. My attention had been refreshed and redirected to the subject by a dispatch that appeared in one of the

papers during the week, indicating that this has been still going on and but the other day their successors were again committed because of their refusal in the premises. Does not this indicate that it is necessary to protect the people against this? How is it that these bonds are floated? How is it that the people are persuaded to lend their funds to accomplish such a purpose as that? Let me tell you. In the first place, if it is a railroad enterprise—and permit me to say that a substantial, thorough, great railroad enterprise, with substance and skill and power behind it, never depends upon the granting of aid by counties and municipalities in the way of bonds. Second, if it is projecting a line through an unexplored and new territory, first, before anybody knows anything about it, it puts its experts, its engineers, in the field, puts its accountants and actuaries at work, undertakes to gather the wisdom of all the surrounding country. They want to know the sources of supply. They want to know the population and the possibility of population, they want to know the productive abilities of the country. They want to know what exists between the proposed terminal points, and it has become practically an exact science, if anything of that kind can become exact, and it is determined not by the question as to whether they can secure a few million of bonds from this county, or two hundred thousand from the other county, but whether, as a business proposition, it will pay—pay its fixed charges, pay its operating expenses, pay interest on its bonded or other indebtedness, and pay a dividend on its common and preferred stock. If any of the elements are wanting, capital stays its hand.

But with the railway promoter and speculator, with the boomer, and the highflyer, the man who has no capital but his energy and skill, and his wit and his brain, the projection is a very different proposition. He goes into the

market and he ascertains that between two localities—as for instance, between Los Angeles and Salt Lake City, the people at either terminal point are of the opinion that a railroad would be a great public benefit, would be an enterprise that would redound to the private and public advantage of the citizens and the cities in which they reside. He does not stop to realize that in this era of competition that has all been carefully considered for years, that the great substantial railroad corporations with money behind them have looked into that carefully from a business standpoint, figured it down exactly. They have not lost sight of any outlying territory that might be made advantageous to their roads or their system. He does not look at that. He does not care. He goes before a legislature of Utah or California, and he gets an interested and zealous lobby behind him—men perhaps who are loaded down with real estate or are hanging on by their eyelids from year to year, hoping almost against hope that the good old boom days will come again and they will be enabled to sell to somebody else something for three or four times its worth, and thus get out; men who also are interested in the hurry and scurry, the temporary advantage that always occurs while the building of any great undertaking is going on; all perfectly honest it may be, yet all interested people, not the people who expect or who may, I should say, be expected to live here and their children after them, not the solid substantial people who are rooted to the soil, and who help to make up the state. These gather about the lobby of the legislature. The matter is boomed and presented in glowing colors to the people and the people are excited. There is a pleasant and plausible side. Everybody is of the opinion what a great and glorious thing it will be if we can only induce this railroad enterprise to launch. Why, it will increase the value of my

property, sir, to such an extent that I can make all improvements or I can sell it and do this, that and the other with the money. I can get out of debt. They figure it down, just how much it is going to pay. Any man can sit down in a private office, particularly if he does not know anything about railroading, and the less he knows about it the more glowing his figures will be. He can just figure out how much a mile it is going to pay and within what period of time, how much population is going to come in the intervening country, how many mines are to be developed, and how much each of those mines is going to produce a week, how much freight the road is going to get from it, how much that ore is going to carry per ton, how it can all be figured out and portrayed up to the people, and it goes with a hurrah. So the legislature authorizes the city or the county to lend its aid on a vote of the people to issue bonds to this undertaking. And it may be before a single rail is laid, before a tie is carved from the virgin wood and laid upon the ground, hundreds of thousands of dollars may have been voted by the people.

In times of excitement, many people are not always right. They are right in the long run, but they are not always right every minute and every day at every election. My friend will agree with me there. He doubtless thinks they were not right last fall in the United States, as I think they were not right four years ago upon a similar occasion. What then? The bonds are on the market, they are put in the money markets of the world, they have passed into innocent hands, they have got to be paid, whether the railroad goes or not. And if the railroad shall go, what then? Railroad enterprises, like other business enterprises—perhaps more so—are subject to disaster, more sensitive, perhaps, than any enterprise that now occurs to me; sensitive to the changes

of the business world, changes in the money market; they go down sooner than other enterprises, and if in the cases I suggest, the railroad is not able to pay its fixed charges, by and by it is not able to pay its operating expenses, pretty soon it goes into the hands of a receiver, and the receiver's certificates take precedence of all other claims against it, and the people and those who come after them, and their property, are called upon as an honest people to pay in accordance with the very letter of the contract that they have entered into. Why, sir, over one hundred and sixty railroads in these United States to-day have gone into the hands of receivers, within the last year and a half; over one-fourth of the mileage representing more than thirty thousand miles, over one-fourth of the capitalization, representing more than two billions five hundred millions, are insolvent, and are being operated to-day at a loss, through the medium of the courts; and behind many of them in many states are the bonds and the contracts of the impoverished people whose farms and whose properties are burdened for all time with this tax-eating, debt devouring lien. As a make-weight, it was suggested by some one here in the argument that in this Territory or State there will be needed reservoirs or canals. What of it? This prohibition that we seek to engraft here in this Constitution is not designed to prevent the State, if the irrigation of the country, if the procuring and conservation of the waters of the mountains, in reservoirs and receptacles for future use, and canals for distribution, shall be determined to be a public purpose, there is nothing here to prevent the State with its finances and its power from taking charge of such enterprises, but it is to the private corporations, it is to the private individual that I would direct this prohibition. As against him, I would prohibit the State from loaning its aid and its

credit. Now, as was suggested to me by an esteemed friend privately, would this prohibition interfere with a city like Salt Lake, for instance, disposing of its property? It was suggested, supposing a railroad were coming in here from the California coast and it sought terminal facilities, and the city of Salt Lake had a piece of ground, appropriate and fitting for the purpose, and the will of the people, through the city council, was to get a bonus and give it to the corporation, "why," he says, "would not this interfere with it?" I said, "No, it would not." There are other rules of law that would determine that question about which I am not now concerned.

I simply say, however, to my friends, that this prohibition would not reach a case like that. That bridge can be crossed by the good people of Salt Lake City and by its common council under the direction of its courts, when it shall be necessary to pass it. Now, what is the object of a state government? Is it simply an accumulation of property? Is it simply that men may get rich—some men? Or is it the building up, the improving, the widening, the enlarging of the race of men who stand beneath it and support it? Are you willing to reach down into the future and pilfer from the pockets of prosperity, the thrift and industry of that generation? Are you willing to lay a lien upon the property of those who are to come after you? I say you have no right to do it. If you may give the moneys that shall be wrested from the people through taxation, which are in hand and not needed for the present necessities of the government, I say you cannot go down into the future and lay the property of the succeeding generations subject to such a burden as this section seeks to prohibit. It is better, Mr. President, that the people make haste slowly. It is better that they grow not with a too rapid growth. There are evils attendant upon this sort

of financial mislegislation that cannot be calculated. You may have a city of lofty palaces and piles, grand and great public buildings, but it may be so burdened with taxes and debt that all but the taxeater flies from its precincts, and I want to warn my friends from Salt Lake County on this floor to-day that they must not overlook the situation of this county and this city particularly. Look down through the valley there and see the numberless little homes that week by week, month by month, have been located outside of the city limits. They represent a small army of mechanics and working men and clerks. Men who have small incomes and who are unable to own their homes within this city to-day. It has now reached a point that a man must be wealthy indeed who can afford to own a home in Salt Lake City of any sort of value. The tax levy is to the very topmost notch. I do not mean the rate of tax, because that is not the test by which this matter should be tested. It is the valuation of the property. The assessed valuations of this city are now so high that men cannot afford to pay them, and if you want to see the signs of the times and if you have wisdom to profit by them, look at your daily papers. Look how the columns are filled with sales under mortgages and trust deeds. Look at the list of tax delinquents, each year, hear the complaint from all cities and from every quarter, all showing the utter impossibility of carrying these burdens much longer. Why, but the other day on Main Street, in a locality that you all will recognize, right next to that Wasatch building, right in the business center, property was sold under a mortgage for sixty-nine thousand dollars and another money loaner that had a mortgage of twenty thousand dollars on it let it go and lost his money because he could not afford to take the risk, and the man who bought it, well known in financial circles here, told me that he would sell it any day for less

than the assessed valuation put upon the property year by year by the assessor.

Mr. JAMES. Mr. Varian, where do you attribute the original cause of this trouble—in national legislation or local legislation?

Mr. VARIAN. I attribute it principally to local legislation. I attribute it to the recklessness of expenditures, and the utter recklessness of going into debt and the disregard of debt. Why, sir, people seem to have an idea, to hear them talk, that this going into debt by a community amounts to nothing. They seem to treat the subject as if it was one to be disposed of by the simple going into debt, without any regard for the final culmination of the transaction which involves the payment of the debt. I believe (although I do not remember figures very well) that the indebtedness of this city is something like that, three and a half million dollars. Fifty thousand people with an assessed valuation of about forty-four millions or forty-six perhaps, with a State with all its consequent and attendant burdens of taxation, coming now in the near future, what is this people to do? Are we going to leave it open to the lobbyist and the speculator to disturb and misdirect the honest intent and will of the people, upon what occasion shall serve and in moments of mental collapse, as it were—darkness—let the people be led into this devious and uncertain way? Let us deal with this question, Mr. President and gentlemen of the Convention, from the standpoint of the State. We are not on the ground looking up from the standpoint of the person or the individual. We are on the higher plane looking down. It is from the standpoint of the sovereign that I would dispose of this question. I would not be diverted by the wants or desires of this locality or that, of this citizen or you, in my endeavor to so construct this organic law that it shall perpetuate forever the liberties and

the freedom of this people. It is a solemn duty, sir, that we have, to guard the public revenue and the public property from spoliation. We may not farm it out through future generations to be disposed of for other than the necessary purposes of the government. You have it in your power to put into this organic law a statement which shall be in accord with the prevailing public and financial interests everywhere, that no public body, neither State nor county, city nor township, nor district, shall ever burden the people's property, shall ever encumber the people's revenues, with an indebtedness designed to aid other than public institutions. In that golden age of liberty and law when Pericles had made Greece immortal he appealed to the genius of Phidias to crown the acropolis with a symbol of the power and glory of the Greeks. A colossal statue of Minerva, the protecting goddess of armies, arts, and industry, was erected as typical of the power and greatness of Athens, as a symbol of law and liberty which challenged the admiration and awe of the people and inspired the Athenian youth with patriotism. Let us here, oh delegates, erect in this citadel of our liberties a symbolic statue of protection and power, protection against wrong, power to do right, much more enduring than hewn granite and chiseled marble, which shall serve to inspire our people with a regard for the true principles of government for all coming time. [Applause.]

Mr. GOODWIN. May I ask the gentleman a question?

Mr. VARIAN. If I can answer it, I will.

Mr. GOODWIN. I wanted to ask if the gentleman ever heard of any man in Kansas abandoning his home because of high taxes, or if the truth is not that the homes abandoned are those on the arid belt in the western part of the state where by actual trial it has been found there is not moisture enough in

the soil for a farmer to raise food enough for his family and his stock?

Mr. VARIAN. Mr. President; I think that that has been one of a combination of circumstances, but as I understand it, the other principle or proposition was also involved that Kansas was a debt-ridden state.

Mr. GOODWIN. I would like to ask another question. If the assessed valuation of Kansas to-day is not as much more for instance, than Arkansas, as all the improvements ever paid for by the state of Kansas amount to?

Mr. VARIAN. I think so, Mr. President.

Mr. GOODWIN. Let me ask one more question.

Mr. VARIAN. I want to state the answer. It is because of this debt that burdens on Kansas and the counties like here in Salt Lake City, the assessed valuations are raised and kept up and they are not at all indicative of the prosperity of its people.

Mr. GOODWIN. One more question, if I can have the privilege. Is it not true that the Union Pacific and Rio Grande have made surveys of all the routes between here and Los Angeles, that they have sought by every means possible to obtain money to build those roads, and that they have been forestalled by the Southern Pacific Railroad in just such arguments as we have heard here to-day?

Mr. VARIAN. No, I do not think that that is true, in its full sense.

Mr. GOODWIN. That is true.

Mr. VARIAN. I am informed by the railroad—

Mr. JAMES. Mr. President, I wanted to ask Mr. Varian a question. You made the statement a little while ago that we were in debt about three and a half millions in this city. I think it is approximately correct—three millions three hundred thousand I think is about the indebtedness. Now, I want to ask you, Mr. Varian, had this amendment that you have proposed

here been on the statute books as a law at the time that indebtedness was created, would it have saved any part of that indebtedness having been created?

Mr. VARIAN. Oh, no; this indebtedness is for supposed public purposes, as I understand it.

Mr. JAMES. That is what I supposed.

Mr. VARIAN. Except the copper plant.

The roll was then called on the motion to reconsider with the following result:

AYES—42.

Adams	Kimball, Weber
Allen	Lambert
Anderson	Larsen, L.
Bowdle	Larsen, C. P.
Brandley	Lowe, Peter
Button	Lund
Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Crane	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Emery	Pierce
Goodwin	Ricks
Green	Shurtliff
Haynes	Squires
Hill	Strevell
Hyde	Symons
James	Van Horne
Jolley	Williams.

NOES—53.

Barnes	Mackintosh
Boyer	Maloney
Buys	Murdock, Beaver
Call	Murdock, Wasatch
Coray	Murdock, Summit
Corfman	Partridge
Creer	Peters
Cunningham	Preston
Engberg	Raleigh
Evans, Weber	Richards
Evans, Utah	Roberts
Farr	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne

Hart	Ryan
Halliday	Sharp
Heybourne	Snow
Howard	Stover
Hughes	Thompson
Ivins	Thoreson
Johnson	Thorne
Kiesel	Thurman
Keith	Varian
Kearns	Warrum
Kimball, Salt Lake	Wells
Lemmon	Whitney.
Lowe, Wm.	

ABSENT—11.

Cushing	Maeser
Eldredge	Maughan
Gibbs	Nebeker
Kerr	Spencer
Lewis	Thatcher.
Low, Cache	

Mr. DRIVER. Mr. President, I have been absent during the whole of the time of this discussion and I could not vote on the thing intelligently and for that reason I would like to be excused from voting either way.

Mr. JAMES. I object.

Mr. THOMPSON. Mr. President, I wish to state that I voted no before and I am converted and I vote no now.

Mr. EVANS (Weber). Mr. President, I was informed over the telephone that Mr. Lewis was paired with Mr. Bowdle, and he voted aye. I would like to ask the gentleman if that is true?

Mr. BOWDLE. Mr. President, I am not paired with Mr. Lewis. Mr. Strevell heard the agreement, that if it came to a vote that day I was paired with Mr. Lewis, but I emphatically made the stipulation that if it did not come to a vote that day I would not be bound by it.

Mr. EVANS (Weber). Mr. Lewis is sick.

The PRESIDENT. Gentlemen, the motion is lost. There are 53 noes to 42 ayes. [Applause.]

Mr. L. LARSEN. Mr. President, I wish to offer an amendment:

Provided, that it shall not be construed so as to prohibit the Legislature from granting bounties or giving aid to private or corporate enterprises.

Mr. CREER. That is clumsy.

Mr. L. LARSEN. Now, Mr. President, if it is true, as has been claimed, that it does not allude to bounties, why I would like to have it so stipulated in that article so that there will be no misunderstanding that our Legislature shall not have the power to put interpretations of the word; it says—

Mr. VARIAN. Mr. President, I desire to suggest a point of order. This section has now twice, by vote of this Convention, been adopted as it stands. The time to have amended it was while it was pending for consideration. If the gentleman desires to incorporate the principle embodied in that amendment in this Constitution, I presume he can frame a separate section and offer that, but he cannot, I submit, now amend this section which stands by the judgment of the Convention in the language in which it was passed.

The PRESIDENT. I think the point of order of the gentleman is well taken.

Mr. KIMBALL (Weber). Mr. President, before you decide that motion, I would like to ask the president of this Convention if that whole bill is not before this house at the present time. It is subject to amendment in any section of it from section 1 to section 36. It is subject to amendment until the final vote is taken.

Mr. VARIAN. I call the gentleman to order, but if he desires to be heard I want to be heard. I am not making the point that this article cannot be amended, but I say that it is a common rule of parliamentary law, and it is so laid down in the books, that when a matter is under consideration to go into an article you must amend it as you desire and the time to amend it was when it was before the house. Now, I admit that he may submit a separate section, not to amend this section. I

do not desire to go into that entire discussion again about this section.

Mr. HOWARD. Mr. President, I wish to offer an amendment to section 8, to strike out the first four lines of section 8, down to the word "Legislature" and including the word "Legislature," and insert the following:

No person shall, while holding any office under the United States government, hold any office under the State government of Utah, and no person holding any public office of trust under authority of the State of Utah shall be a member of the Legislature.

I find that in looking over these articles that in the last section of the executive article that we have had under consideration in committee of the whole.

Mr. BUTTON. Mr. President, I arise to a point of order. This very same amendment was offered the other day in the Convention and voted down.

The PRESIDENT. I think the point of order is well taken.

The secretary will call the roll on the passage of the legislative article.

Mr. L. LARSEN. Is the roll call on the whole article?

The PRESIDENT. Yes, sir.

Mr. L. LARSEN. Then, I would propose this as a separate section, to add it to the article.

Mr. KIMBALL (Weber). Mr. President, I suggest that the secretary having started to call the roll no motions are proper now.

The PRESIDENT. That is correct. The point of order is well taken.

The roll was then called with the following result:

AYES—72.

Adams	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Boyer	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	McFarland
Christiansen	Moritz
Coray	Murdock, Beaver

Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Page
Driver	Partridge
Eichnor	Peters
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Evans, Utah	Roberts
Farr	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Halliday	Sharp
Heybourne	Snow
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Thompson
Johnson	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, C. P.	Williams.

NOES—22.

Allen	James
Bowdle	Jolley
Brandley	Larsen, L.
Button	Lund
Chidester	Morris
Clark	Peterson, Grand
Crane	Peterson, Sanpete
Goodwin	Pierce
Green	Ricks
Haynes	Symons
Hill	Van Horne.

ABSENT—12.

Cushing	Maughan
Eldredge	Miller
Gibbs	Nebeker
Kerr	Shurtliff
Lewis	Spencer
Low, Cache	Thatcher.

Mr. BOWDLE. Mr. President, I vote aye on all of the sections but this last one.

Mr. BRANDLEY. Mr. President, I will

vote aye on all of the sections except the last one.

Mr. EVANS (Weber). I arise to a point of order. Gentlemen cannot divide their votes in that way. The gentlemen must either vote aye or no.

The PRESIDENT. They cannot divide their vote in the matter as I understand it. They can make their explanation.

Mr. CANNON. Mr. President, I believe the Convention has allowed heretofore an explanation of each man's vote.

The PRESIDENT. That is correct.

Mr. CANNON. At the same time, Mr. President, I believe it is a waste of time. The fact that those men who did not like the section voted against it placed them on record. So far as I am concerned, when I come to the article, I can vote for the article, because my vote is against this section on record anyway.

Mr. BUTTON. Mr. President, I am against the next to the last section more than I am to the last one. I will vote on all but those two sections.

Mr. VARIAN. Mr. President, I submit that the gentlemen ought to be able to understand this. They have either got to vote aye or no or not vote at all, with the privilege of making an explanation of their vote when the roll is called. We could not keep a record in any other way.

Mr. BUTTON. If I have got to vote aye or no, or not vote at all, I vote no.

Mr. ADAMS. Mr. President, I vote aye on this, because I am in favor of that section of Mr. Varian's, although I voted for the reconsideration.

Mr. EICHNOR. Mr. President, I vote aye and I favor the general principle of Mr. Varian's amendment, but I do discountenance the manner in which it was accomplished.

Mr. JAMES. Mr. President, this legislative act as it stands at the present time has interfered with the committee on incorporations and

usurped their rights, taken away from them that that was farmed out to them, and that that they had performed, and I vote no.

Mr. LAMBERT. Mr. President, I vote aye, but want my protest against the last two sections.

Mr. L. LARSEN. Mr. President, I am not in favor of the last section, and I must be compelled to vote no.

Mr. SQUIRES. Mr. President, I am like my friend Mr. Eichnor. I always bow to the will of the majority. I vote aye.

Mr. STREVELL. Mr. President, I would like to say that I voted in favor of the reconsideration and against this section of Mr. Varian's because I believed it went too far, but I will vote aye on the article.

Mr. WILLIAMS. Mr. President, I vote aye, but I am opposed to the last section.

Mr. MAESER. Please vote me aye.

Mr. SQUIRES. Mr. President, I object, the absentees have been once called.

The PRESIDENT. The objection is well taken.

Mr. VARIAN. Mr. President, I think he may vote any time before it is announced.

Mr. EVANS (Utah). I ask for unanimous consent that Mr. Maeser be recorded on this vote.

Mr. EICHNOR. I object, with all due respect to Mr. Maeser. When they use the whip lash here I am going to use it myself.

Mr. VARIAN. I would like to ask what whip lash?

Mr. IVINS. Mr. President, I insist that any member has the right to have his vote recorded before the result is announced.

Mr. PIERCE. I support that; that is the rule.

Mr. IVINS. It does not need unanimous consent. The result has not been announced.

The PRESIDENT. The gentleman's vote can be recorded.

Mr. SQUIRES. Mr. President, there is a rule here that provides that the roll of absentees shall only be called once.

Mr. IVINS. Mr. President, I arise to a point of order. The gentleman is discussing a question that has been decided upon.

The PRESIDENT. The article is passed by 70 to 23 without recording Mr. Maeser, and with recording him 71 to 23.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. Anderson moved to amend standing rule 11 by adding the following words after the word "Convention," in the fourth line:

"And no member shall speak longer than fifteen minutes on any question."

Mr. Anderson moved to amend standing rule 20, by striking out, after the word "time," in the seventh line, the following, "but any member may yield his time or any part thereof to another."

Mr. BOWDLE. Mr. President, I arise to a point of order. We are not on that order of business, as I understand it.

The PRESIDENT. Motions and resolutions are in order.

Mr. IVINS. Mr. President, under the rule this goes to the committee on rules without any debate.

The PRESIDENT. The point is well taken.

Mr. KIMBALL (Weber). Mr. President, I move we now resolve ourselves into committee of the whole.

The motion was agreed to and the Convention then resolved itself into committee of the whole with Mr. Evans, of Weber, in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, the committee of the whole is now considering section 12 of the article on executive. There are two amendments pending to section 12.

Mr. EICHNOR. Mr. Chairman, the substitute offered by Mr. Low, of Cache,

was not introduced. My substitute is the only substitute at present before the committee.

The substitute offered by Mr. Eichnor was read.

Mr. VARIAN. Mr. Chairman, I trust that substitute will not prevail. I do not know whether all of the members now present were present when it was discussed the other day, but I simply call attention to the fact that the section as presented by the committee is quite complete and covers the whole ground of the new jurisdiction granted to this new tribunal in the government. It is hardly worth while to go over the ground again, as we went over it the other day.

Mr. ANDERSON. Mr. Chairman, I hope that this amendment will prevail. I think that it is a good one. I do not think that the supreme judges should be allowed to act as a board of pardons, as I think the very fact of their passing upon a case would tend to bias their minds, and I do not think that they should act as a board of pardons. Therefore I support the amendment of Mr. Eichnor.

Mr. EICHNOR. Mr. Chairman, I do not desire to speak very long on this substitute that I proposed. My friend Mr. Varian says he hopes it won't prevail. I hope it will. And for the reason as stated the other day—quite a number may not have been present. It was also stated by Mr. Anderson of Beaver that the judges of the supreme court should not sit on the pardoning board. A number of cases are appealed from the lower courts to the supreme court and they either affirm the decision or reverse it. If they reverse it, there is generally very little occasion for a pardon. Sometimes there may be a conviction in the lower court, and when they affirm that decision when the matter is brought before them, they would say, "Well, we have passed on this."

You may say that they will only pass on questions of law. At the same time

it is human nature for a man not to reverse himself. This gives the governor full power to pardon in cases of misdemeanor. They need not go to a pardoning board. I think it is a very unwise provision in a constitution or in any statute that requires a man that is convicted of a misdemeanor to go before a pardoning board. The maximum punishment for a misdemeanor in this Territory is imprisonment 180 days, or a fine of \$180. That is the maximum penalty that can be indicted for committing a misdemeanor. In that case the governor ought not to be hampered with a pardoning board. When a man is convicted of a felony, it is just and proper that a pardoning board should pass upon it. I have for the pardoning board the secretary of state, the attorney general, and the state auditor. That idea is not original with me. It is adopted in a number of states. Montana has it. In that case the governor pardons the offender on the recommendation of the board of pardons, and why the supreme court or the justices of the supreme court should constitute the pardoning power I fail to see. Only two states, Nevada and Florida, or possibly one of the Dakotas, have that board. Quite a number of the states place the power absolutely in the governor. The great state of New York has that pardoning board. Some states have pardoning boards, but as a general rule they are made up of the state officers or private citizens, and this idea that every man on the pardoning board must be a lawyer is an incorrect one. I believe that a pardoning board should not weigh every little technicality but should view the case as a whole and see whether the man is entitled to a pardon or not, and if they think in their judgment that he is entitled to a pardon, after the case has been passed upon by the courts, why pardon him.

Mr. HAMMOND. Have you provided for the salaries of this pardoning board?

Mr. EICHNOR. They get no salaries. They get their salaries as State officers. They can meet once a month or less.

Mr. IVINS. Mr. Chairman, if there is to be a board of pardons at all, it seems to me that section 12, as reported from the committee on executive, is better adapted to the necessities of the case than will be the amendment offered by the gentleman from Salt Lake. It is a well known fact that under existing conditions the pardoning power is vested in the governor. It is also a recognized fact that a pardon is rarely granted by the governor until after he shall have consulted with the district judge, or the supreme court judge, if the case had been tried in a supreme court, before which the case was tried, and has the approval of those officers, and the very reason which is urged by the gentleman from Salt Lake why the justices of the supreme court should not be members of this board of pardons, is the very reason which in my mind makes it necessary that they should be. They are men well versed in law. They are men expected to be familiar to a great extent with these cases that have passed through the courts, and who will be better able to judge in regard to the propriety of granting a pardon to a criminal than those men who would be thoroughly acquainted with all the facts. I hope the section will remain just as it is, and that the amendment will not be adopted.

Mr. EICHNOR. Mr. Chairman, I would like to ask Mr. Ivins a question. If section 12 is adopted as it stands, would it not be a virtual abolishment of the pardoning power in this State?

Mr. IVINS. It would be a virtual abolishment of the right of the governor to pardon without the sanction of a board, and that is just what we are figuring for. We do not propose to vest the entire power in the governor of the State. He must have the approval of a board of pardons, which would

scrutinize what he has done. That is what we want.

Mr. KIMBALL (Weber). Mr. Chairman, I am in favor of the proposition to vest the pardoning power in a board rather than in the governor. I have had some little experience in that thing myself, and I know that it is easier to get around one man than it is to get around a dozen men. I have been through that mill myself, and I think for that reason we ought to support this proposition to vest it in the pardoning board.

Mr. THURMAN. Mr. Chairman, I would like to offer a substitute for both of these. (Reads.)

Until otherwise provided by law the governor shall have power to remit fines and forfeitures, commute punishments, and grant pardons for all offenses against the State.

I do not see why this matter cannot be left with the Legislature. Of course this leaves the matter where it is now, but it gives to the Legislature the right to create a board such as is here named, or any other kind of a board of pardons, or any other means by which the question of pardons may be disposed of. It seems to me that this is entirely too experimental for this body to undertake to legislate upon. For that reason, I favor leaving it to the Legislature.

Mr. VARIAN. Mr. Chairman, taking the propositions in their order, I will suggest, in speaking to the substitute offered by my friend from Utah County, that there is no reason why we should not leave it to the Legislature if we do not desire to change the system. If we desire to change the system, if the experience of other states and if the experience of this Territory within the last ten years has not been sufficient to convince the people of this Convention that the system should be changed, why I grant the gentleman his premises and conclusions. But it is for the very reason that the committee con-

ceived that the system ought to be changed, that they present a scheme here for incorporation in the Constitution, a scheme that has worked well, worked since 1864 in one state without complaint, worked since 1884 in another state without complaint. If you are going to leave it to the Legislature, remember that you leave it also to the governor, who has a potential voice in determining what the Legislature shall do. If, in accordance with the ordinary instincts of men, the enjoyment of power leads to the desire to not only hold what he has got, but to acquire more, practically you are leaving it also to the governor. And if he should disagree with the Legislature about a so-called invasion of his prerogatives and vetoes it, it will take two-thirds of the members of either house to carry it over his head and enact it into a law. If you put it into the Constitution, as I think it very properly belongs, it is creating a new jurisdiction—a new tribunal. In that sense it stands on a par—on the same plane, rather, with the judicial tribunal. You are creating a tribunal and defining its jurisdiction, so that all may understand it. You remove it entirely from the domain of legislation so far as that is concerned. For that reason, we of the committee, believing in a change of the system, object to the substitute offered by my friend from Utah.

In answer to the suggestions made concerning the substitute offered by the gentleman from Salt Lake, I have this to say, that the section as it stands does provide for the consideration of offenders found guilty of misdemeanors. In the first place, he is mistaken as to the maximum penalties imposed by statute for misdemeanors. As the statutes now exist, penalties of imprisonment of twelve months and ten months are found upon the statute books. The imposition of fines to the amount of a thousand dollars are found there. But laying that aside, in the body of this

section is included a proposition authorizing the governor to grant reprieves until the next session of the board. It is carefully guarded. No man need suffer because of the failure of the law to provide for the bringing of his case before this tribunal. As to the other point of objection, that the judges to whom we are to intrust all that is valuable and sacred in life, on whose integrity and learning and capacity to see and discern the right on the wrong, we shall rely for our liberties and our fortunes—to say that they are to be presumed guilty of such bias and contemptible prejudice, having once passed upon the cold record of the case of the offender as it comes before them, on appeal, that they shall be unable to decide justly and intelligently, is to say something that I do not admit for a moment.

It has not worked so in practice, and indeed the same argument would apply in a case where the justices of the supreme court grant a new trial. It is sent back and tried over again. It comes up upon the second appeal, possibly the third appeal, when they are to treat it and take it as a new and independent proceeding. You might just as well say that they are disqualified, because on a former hearing they had passed upon the case as presented to them. Again the case is not presented in the same way, nor upon the same facts. After the offender is convicted by a jury, after the trial judge passes upon his motion for a new trial, judges of the supreme court are called upon only to review the errors of law, if there be any. Your system as contemplated by your judiciary article, according to the system prevailing generally, prohibits them from passing upon the questions of fact. It is simply that they look into the record to ascertain the errors of law, if there be any, and they affirm or reverse the judgment as the case may warrant. Now, if there is, as I said on a former occasion, a time

when this matter ought to be settled, it is this time. It ought to be and is in the nature of things for the good and protection of society conclusively presumed that the crime was committed. That the man charged committed it. That the punishment under the law meted out to him by the trial judge is sufficient and ought to be carried out. Now, the board of pardons is not designed as a court of appeal to review all this.

It is not designed to examine into other matters either arising after the trial or so intimately connected with the act of the offender and of such a nature that they could not be and were not brought out and made to bear before the jury upon the question of his guilt or innocence. Taking them all into consideration, weighing them all on one side, with the offense, its magnitude, its relation to society, and the interests of the people on the other, to determine whether or not it is a case for the exercise of executive clemency, and it is right and meet that it should be done before a tribunal openly and in the daylight, before a tribunal with a responsibility of law resting upon it, by the application made upon evidence taken upon a hearing had on either side, where the State itself may be represented by its law officers. That is the idea underlying this and it ought to be so. It ought not to be that a criminal is convicted, if he can gather around him friends, if he has the influence that position or money may bring, that he can go to work and insidiously and quietly build up the application to the governor, which may be entertained privately, where only one side is heard, so that the exercise of executive clemency is sprung upon an unsuspecting people as one of the surprises of history and nobody knows about it. It is the design of this provision, in accordance with the provision in the states of Nevada and Florida, in accordance with the provisions of sixteen or seventeen

other states, not exactly in detail like this, but as to a pardoning board, that there should be a tribunal which shall be held responsible to the people and that the public may have the opportunity of reviewing its action by seeing what moved it, what evidence was before it, what arguments deduced, not leaving it to the secrecy and privacy of the street or the secluded executive chamber. After all is said, we come back to the proposition, if you want to change the system; if you do not want to change the system, I agree with my friend, Mr. Thurman, just leave it with the governor and let it alone.

Mr. EICHNOR. Mr. Chairman, I just wish to make an explanation. When I stated that the maximum penalty for misdemeanors in this Territory was 180 days imprisonment, I had reference to justices' courts. In district courts it is as Mr. Varian states it.

Mr. SMITH. Mr. Chairman, I favor the amendment of Mr. Thurman to this section. It seems to me we are taking altogether too much ground in this question of pardoning, and while the governor may exercise some jurisdiction in connection with this matter, the Legislature can wisely and prudently consider it, and it seems to me that we are covering so much ground—taking up this matter in this section that it would be the wisest thing we could do to strike it out and bring the substitute of Mr. Thurman in, because the Legislature, after a proper review of all this matter in all its bearings, can fix it up, and if there is any future change necessary, it can be readily brought about.

Mr. CREER. Mr. Chairman, I also agree with the last speaker. I am in favor of leaving this matter with the Legislature. I believe, however, there ought probably to be some change made and if we were going to deviate I think that all that would be necessary would be down to line 10 of this section. It seems to me that the remainder of the section is altogether such

matter as would properly belong to the Legislature, because they are simply regulations carrying out the principle that is introduced in the fore part of the section. I am not in favor, however, of continuing this pardoning power in the line of the judiciary. It seems to me there ought to be some point by which there should be an angle following the line of those who have had a trial of the cause—when it comes upon the question of pardoning power, it seems to me there ought to be others than those that have sat as courts and prosecuting attorneys. Hence, I am in favor now, and shall vote for the gentleman's substitute from Utah County, Mr. Thurman.

Mr. JAMES. Mr. Chairman, I have got very decided convictions upon this matter. They come to me from an experience of a long period in Utah Territory, where we have seen a good deal of pardoning and the granting of pardons, and I am in favor of the amendment. I have seen pardons granted in this Territory that I regretted and all good citizens did regret. I remember some ten or twelve years ago, a pardon was granted in this Territory to a man that was in for ten or twenty years and it was not ninety days until he had committed the same crime over again in the southern part of the Territory by murdering the second man. Now, I tell you that the life of that man was a serious thing and when taken through a lack of over zealousness and generosity towards an unfortunate creature to let this man out of jail. It generally comes from sympathetic motives and those sympathetic motives do not return the life of a murdered citizen, and I am strongly in favor of some pardoning board and I hope that this Convention will insert it in the Constitution. I am not lawyer enough to say how it should go in there or what is the best form for it, but I say it ought to go in there in some shape.

Mr. ANDERSON. Mr. Chairman, I

will support the substitute of Mr. Thurman. I am strongly in favor of a board of pardons, but I have serious objections to the supreme judges acting as a board. I think that they are very likely to get so deep in the groove of technicalities that they would be prejudiced and I do not think they would make a fair and impartial board.

Mr. PRESTON. Mr. Chairman, I think if the gentlemen will study the question carefully, they would rather leave it just the way it is than to make any substitute of any kind.

Mr. SQUIRES. Mr. Chairman, I do not wish to take up the time of the committee to argue this question, except simply to state that my own experience as warden of the penitentiary is such that I am not in favor of the amendment of the gentleman from Utah County, which would still leave the matter in the hands of the governor with a Legislature that might possibly continue that system. During my short experience as warden there were a large number of pardons, and that of the very worst criminal class that we had in the penitentiary, men that never should have been turned loose, men who were, within thirty days after their pardon, again arrested for worse crimes than those committed while they were there. And I am well satisfied that if these several cases that I refer to had come before a board of pardons where the responsibility could have been divided among a number of gentlemen, that the pardons never would have been granted. I also look upon the question in another light. I want to relieve if possible the executive of the State from the annoyance which these pardoning matters must of necessity be to the governor. He is pursued and harassed on all sides by the friends of those who are desiring to receive pardons, and every sort of influence is brought to bear upon him, and I do not wonder sometimes that he does get a little off of his base and pardon men in order

to get rid of the annoyance of their friends. I believe that some provision should go into this Constitution, making it in the line of this section 12. I am not persistent to have section 12 as it stands go into the Constitution, but I am opposed to leaving this matter to a future Legislature, which may in its turn leave it in the hands of the governor. I do not believe that a board of pardons could ever be corrupted by the use of money. I do not insinuate that any of our executives have been so influenced, but I think that it is safer—safer for society, and better for the people at large that this matter should be left in the hands of a board of pardons. Therefore, I am opposed to the substitute offered by the gentleman from Utah.

Mr. THURMAN. Mr. Chairman, I desire to add a few words to what I stated in the beginning. I am in favor too I believe in principle in a board of pardons, and if we were a Legislature here assembled to make laws and had the power to create a board, I would be in favor of deliberately going to work and framing the best board that we could. I would have this consolation, however, in that case, that if we made a mistake some future Legislature could rectify it. Now, my friend from Salt Lake, who just occupied the floor before me, says that the governor is harassed and annoyed by men applying for pardons. I say if there has got to be such proceedings as that, let us let the governor alone be harassed and not have the supreme court and the attorney general the same as the governor. One man is enough to be harassed on this kind of a business.

Mr. SQUIRES. May I interrupt the gentleman just a moment? Under section 12, it is provided that a hearing should be had in each case, that would not necessitate the harassing of anybody. The case would be heard in an open session of the board and settled.

Mr. THURMAN. I do not know

whether it would be very harassing or not. It would depend on how long winded those fellows would be that wanted to make speeches before the board. If they were as long winded as some of us in this Convention, there would be a good deal of harassing about it, I take it, before it was finally disposed of, but I wish to impress this, Mr. Chairman, upon the members of this Convention, I am not opposed to a board of pardons. It may be a good thing, but I would like to know of the gentleman from Salt Lake, who is the chairman of the committee making this report, how many state constitutions provide for boards of this kind, if you have examined it?

Mr. VARIAN. I was looking for the list. My recollection is that about seventeen, not of this particular kind, but if I remember, in some states it is the council—that is, the senate, in others, it is a certain number of persons selected from the senate. There are only two or possibly three states where the provision is like this, taking in the justices of the supreme court.

Mr. THURMAN. Now, that is one difficulty that I see about this question. It is yet a matter that is purely experimental. This may be the right thing to do and it may not. There may have been some mistakes made by the governor in the past. I will say, however, that there has been no serious complaint about that. I believe the governor, as a matter of duty, ought not to pardon a man without consulting the attorney general or the prosecuting attorney who tried the case and the judge who sat on that case at the trial, and I believe that ninety-nine cases out of every hundred men who have been pardoned in this Territory, the governor has exercised the prudence and discretion to do that very thing, and if any governor has ever assumed to pardon a man against the approval and counsel of the attorney general, at least without giving him a chance to be

heard, I think the governor acted very unwisely; but what I fear is that we will make a mistake in this Constitution in respect to this matter, because it is only experimental up to the present time. The very fact here, that men divide in this Convention, and some say that they favor Mr. Eichnor's substitute as being the better, and some say they favor section 12 as it stands, and some say they want to leave it to the Legislature—the very fact, I say, that that is the case, upon a question of this kind, convinces me that it ought to go to the Legislature, so that if a mistake is made it can be rectified without expense. I am not wedded to this idea of mine. I am not opposed to a board, but I am afraid that we have not time here to consider it, and when we have done it, it will be a matter after all to a great extent of legislation.

Mr. VARIAN. I would like to ask the gentleman, before he sits down, does he understand that this is a new proposition?

Mr. THURMAN. No; I have not examined the question.

Mr. VARIAN. Does he not understand that in the last twenty-five years this general subject has been discussed more than any other concerning the administration of penal laws, and in one way or other has received the approbation of modern penalogical thought on the subject, and that it is embodied for that reason in most of the new constitutions?

Mr. THURMAN. I understand that that has been investigated and discussed to a great extent, but I will ask the question if it is not also a matter that has been dealt with largely by the legislature?

Mr. VARIAN. I will answer the gentleman by stating that in one form or other it is in all new constitutions—that is practically all.

Mr. THURMAN. I am not objecting to the board, as I say, but as to what shall constitute the board, I am not

now satisfied that that is the best, and for that reason I shall favor the substitute.

Mr. MALONEY. Mr. Chairman, I agree with my friend from Utah County. I am in favor of a board of pardons, but let us leave it to the Legislature and to the governor. I think we can safely do that.

Mr. CREER. In what constitutions that you have consulted—have they as much detail as you have proposed in this section, with reference to the board of pardons?

Mr. VARIAN. In quite a number they have. I will say that if that is a serious objection, we can obviate that by striking out all after the word pardons, in line 11.

Mr. CREER. I will vote for that.

Mr. SQUIRES. Would it be in order now to move to strike out any portion of this section?

The CHAIRMAN. No.

The question being taken on the substitute offered by Mr. Thurman, the committee divided and by a vote of 20 ayes (noes not counted) the substitute was rejected.

Mr. SQUIRES. I call the attention of the chair to the fact that if we properly modify this other section by a motion to strike out we may better understand whether we want to vote for Mr. Eichnor's amendment or not.

Mr. VARIAN. With your permission I will now offer a substitute to get the sense of the house.

Mr. IVINS. I arise to a point of order. My point of order is that no substitute or other amendment is in order until after Mr. Eichnor's substitute has been voted on, and then the section will still be open to any amendment that may be desired.

The CHAIRMAN. The chair would so hold.

The question being taken on the substitute offered by Mr. Eichnor, the substitute was rejected.

Mr. VARIAN. I now offer my amend-

ment to test the sense of the house upon the boiling down of this article:

Strike out section 12 and insert:

The governor, justices of the supreme court, and attorney general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may think proper, remit fines and forfeitures, commute punishments, and grant pardons after convictions, in all cases except treason and impeachment, subject to such regulations as may be provided by law, relative to the manner of applying for pardons.

Mr. ROBERTS. I would like to ask the chairman of the committee on executive if it is his intention that impeachments and treasons should not be pardonable offenses?

Mr. VARIAN. No; I understand that that is a matter to be left to the Legislature. Impeachments, of course, cannot be pardoned. No pardon can reach impeachment. A treason is to be tried, as I understand it, by—

Mr. ROBERTS. Yes, tried, but how about the pardon?

Mr. VARIAN. My recollection is that there is some provision in another article in relation to treason.

Mr. ROBERTS. There is no provision in this substitute, as I remember the reading of it, to deal with pardons touching those two things, and I was wondering if it was intended to make those crimes unpardonable.

Mr. VARIAN. I will say that the usual rule is that the Legislature deals with treason, and I say in the section as reported from the committee that that is accounted for; I am in favor, really, of the section as it comes from the committee, but I introduced this substitute, which is a literal copy from one of the state constitutions, in order to test the sense of the Convention as to whether they want to boil down this section.

Mr. THURMAN. Will the gentleman permit a suggestion in relation to his amendment?

Mr. VARIAN. Why, of course.

Mr. THURMAN. Retain down to the word "pardons," in line 11, strike out all after that down to the word proviso, in line 30, and retain the balance of the section; that provides for impeachment and treason, all in one section.

Mr. VARIAN. With the permission of the Convention, if the gentleman desires to make that motion, I will temporarily withdraw this substitute, and we can test the sense of the Convention upon the motion of the gentleman from Utah.

The amendment proposed by Mr. Thurman was then read.

Mr. ANDERSON. Mr. Chairman, I move that the substitute be amended by striking out justices of the supreme court and inserting secretary of state.

Mr. VARIAN. I call attention to the fact that in the event of death or disability of the governor, we have already adopted a system which provides that the secretary of state should act. In such an event, that would simply have on that board of pardons two men and they might get to be a tie.

Mr. EICHNOR. I suggest that when the secretary of state is acting as governor, some one is acting as secretary of state.

The amendment of Mr. Anderson was rejected.

The CHAIRMAN. The question now recurs upon the amendment offered by Mr. Varian of Salt Lake.

Mr. VARIAN. Mine was withdrawn.

The CHAIRMAN. The question then recurs upon the amendment offered by the gentleman from Utah, Mr. Thurman.

Mr. CORAY. Mr. Chairman, I would like to suggest that if the section passes as proposed to be amended by the gentleman from Utah, it provides for cases of treason, but not impeachment.

Mr. VAN HORNE. Mr. Chairman, it seems to me, the gentleman has forgotten that in cases of impeachment, the punishment can only go to the extent of a man being deprived of his office.

Mr. IVINS. Mr. Chairman, I arise to

a point of order. The amendment to the amendment offered by Mr. Anderson has already been voted on.

The CHAIRMAN. The point of order is well taken. The question is now on the amendment of Mr. Thurman.

The question being taken on the amendment offered by Mr. Thurman, the committee divided, and by a vote of 36 ayes (noes not counted) the amendment was rejected.

Mr. VARIAN. Mr. Chairman, I do not offer any amendment. I stand by the original section.

The CHAIRMAN. The question now recurs upon the section as it stands.

Mr. VARIAN. Next section.

Mr. EICHNOR. Mr. Chairman, I move to strike out section 12.

The motion was rejected.

Sections 13 and 14 were read.

Mr. CREER. Mr. Chairman, I move to strike out section 14. I would like to make a few remarks. While I appreciate, Mr. Chairman, the object of the committee in introducing the principle of making those State officers ex-officio boards of certain institutions, I am convinced in my own mind that this would subserve the best interests of the public institution for which it is intended, for the reason that it is peculiar perhaps, I may say to any other public institution, and that in the fact that it is the guardian of the insane people of the Territory and the responsibility that rests upon the shoulders of those who have the immediate charge of that institution is certainly very grave, because they have not the patients—those for whom they are designed to care for have no judgment of their own and circumstances are such that accidents and casualties and disturbances arise from time to time that it would not be just, let alone to be wise, to leave that responsibility upon the officer who is the only officer that has the oversight of this institution in the absence of the managing board. It has been considered wise by the Legislature for a number of

years past to make a provision in the managing board of that institution, an executive committee, who should reside in the county in which the institution is situated. For my own observation, I know it would be very advantageous too. That good results have followed that plan of having an executive committee reside in the county, for this reason, that in case of anything occurring unusual and which is liable to do at any time, the superintendent has the opportunity of consulting immediately then with some person and getting the benefit of their advice and judgment in this matter. Besides that, as a matter of economy, to have some one that they might consult with with regard to the running of the institution is believed to be for its best interests.

As the law is now, the law requires three of the managing board to reside in the county. They receive no mileage, they receive a compensation of four dollars a day, and usually they do not put in more than probably two or three extra days, and sometimes not that. The other members of the board—the board is constituted of seven members, they also receive four dollars a day and their mileage. Now, it seems to me, as a matter of economy, it would not avail anything, because the mileage of those three State officers would have to be considered, and in fact, the idea of placing the management of that institution under a board of control that reside in another county—or I take it for granted that Salt Lake County will be the residence of those gentlemen—which is the governor and the state treasurer and the state auditor, I think would be unjust, and would not be the proper thing to do, and it seems to me that this would be a dangerous step to take, and I believe that it ought to be left to the Legislature. Let them use their judgment, and if necessary cut down the number of the board. That may be done or any change they may see fit, even the change as proposed

now, but to place this in the fundamental law and say that it shall be under the immediate control of those State officers, I am opposed to it, and I am satisfied from my little experience with that institution and from observation, it would not be the best thing to do. Of course, it may be said that they would appoint their agents. Now, there could be no other agents, perhaps, excepting the assistant medical superintendent, and he probably would have to receive a salary maybe of fifteen hundred or two thousand dollars a year. The entire expense, as I understand it, of the control of that institution, excepting the superintendent, does not amount to more than about six hundred dollars a year—each director does not get more than about one dollar or probably a dollar and a quarter a week. That would be about the average compensation now, and it is merely a bagatelle as to the idea of abolishing that idea. It seems to me, further, that an institution of that kind ought to be in touch with the people themselves, and not have to depend upon those State officers as an ex officio function to perform. I am satisfied thoroughly in my own mind that it would be a dangerous step to take, to abolish the present system, and to adopt the idea of making those ex officio officers, and there could be no other object than simply the fact of them being State officers, and probably not having sufficient to occupy their entire time. There is nothing to indicate that they would be peculiarly adapted by being state officers. Any intelligent man certainly would be capable of performing the duties, just as well; therefore, I hope the committee will strike this section out as being entirely unnecessary.

Mr. MALONEY. Mr. Chairman, I hope the motion will prevail to strike out sections 13, 14, 15. They are legislation pure and simple. If they work well, all right. If they do not work

right we cannot get rid of them until the Constitution is amended or until we have a new Constitution. I say it is making it too cumbersome and it is a radical departure from the system already adopted, and therefore, I am opposed to it, and on the third reading I do not intend to vote for the article at all, or any part of it, if it stays in.

Mr. VARIAN. Mr. Chairman, by comparison of this with succeeding sections, the Convention will see that of course there is a radical departure from the present system. The present system as I understand it, is to constitute boards of these several territorial institutions, composed of private citizens—six, seven, and eight, I believe most of the boards are.

Mr. CREER. It is seven now.

Mr. VARIAN. Now, it is usual, as my friend, Mr. Creer, suggests, to have at least one man on the board who is a resident of the place of location of the institution.

Mr. CREER. Three under present law.

Mr. ROBERTS. Of the county?

Mr. VARIAN. A number, however, came from other places, they are private citizens. They leave their business on Friday night, perhaps, if they are going to Logan, go to Logan, make a cursory examination of matters and things, and come back and resume their private business on Monday morning, or it may be to Provo, or it may be to Ogden, wherever the institution is located. Now, I do not believe, and I think that was the sentiment inspiring the committee, that the State can get service it ought to have under those circumstances. In the first place, the division of responsibility is too great. We had better have three men than seven. In the second place, you cannot be expected to get the service and the time needed from men who are simply officials for a day or two days at most in two months or three months, as the case may be, whose time is fully occupied with private business.

Impose those duties on State officials who are responsible to the people—not necessarily elected from the capital. They are elected from other portions of the State. They reside here because the purpose and functions of government necessitate their continued presence here. They have their duties to perform, it is true, but I undertake now to say that I believe you will find when the State government goes into operation that fully one-half the time of the State officers will be unemployed. You will not give them employment in the purely functionary duties of the State government alone.

The treasurer and the auditor and the secretary of state will be for months between the sessions of the Legislature practically without continued employment and will have to be at their office every day. They will come down at 10 o'clock in the morning and they will look about, perhaps make some entries in the books, pay some warrants, if there is any money to pay, and draw some perhaps, after the sessions of the State board of examiners, and go away at three or four o'clock, during a large portion of the year. Now, this is not a new system. It prevails in many of the surrounding states. It is adopted in Idaho, Montana and other states. I do not just now recall which, and it was with that view that the committee decided to present for the consideration of the Convention this new system of arranging these several duties to be performed by the State officers who are not to get any increased salary therefor. The arrangement is that what they receive yearly for their service shall be in compensation for all the services imposed upon them by law. This is all there is to it, and if it is objectionable in the case of the state asylum, it is objectionable in the case of the reform school and the state prison, and it should be modified and changed in accordance with the views expressed if the Convention does not desire it.

Mr. CREER. Mr. Chairman, it would not be objectionable to the state prison, upon the same ground that I have indicated, because the state prison would be here at the capital.

Mr. VARIAN. Well, I cannot see. Mr. Chairman, how that can make any difference. The underlying idea is that these officials have this public duty to perform, keep themselves in line and in touch with the institution all the time, which these—I was going to say itinerant boards do not and cannot. They are not only in touch with the financial conditions of the State, with all the functions of the State government from day to day, but they are right in line and in touch with the several institutions to supervise and look after which is made part of their duty. It is an official duty put upon them by law, and the fact that it is put in the Constitution should not make it objectionable on that ground or perhaps, to state it the other way, the Convention should not refuse to put it into the Constitution, because, as claimed, it is a matter of legislation. Of course, it is legislation—fundamental legislation. If they desire to leave the matter open for change, it is easy enough to amend all these sections by saying, "until otherwise provided by law." That would obviate that objection, if it is an objection to the members of the Convention. It is not a reason for striking out the entire section.

Mr. CREER. Mr. Chairman, I have one more reason before it is voted upon and that is this, that it certainly must appeal to the judgment of every member upon this committee that it would be well to leave it somewhat distributive—this board—they ought to at least come from more populous counties or cities of the Territory, Salt Lake County has quite a number of patients and Weber County; by having some one residing in the county, then they could communicate more readily; to have them absolutely at one place, it certainly

must appeal to the judgment, that it would not be for the best interests of the institution.

The question being taken on the motion of Mr. Creer, the committee divided and by a vote of 29 ayes to 39 noes, the motion was rejected.

Sections 15, 16, 17, 18, 19, and 20 were read.

Mr. KIESEL. Mr. Chairman, I move that the salary of the governor be one thousand dollars per annum.

Mr. THURMAN. I do not see the gentleman from Millard. I am going to ask him what his opinion was as to whether that would be sufficient or not. [Laughter.]

Mr. KEARNS. I move to pass it until the gentleman from Millard be present.

Mr. JAMES. Mr. Chairman, I move that the motion be amended and that we pass this section until the report comes from the committee on salaries.

The CHAIRMAN. It seems to the chair that that would not be germane.

Mr. BUTTON. Mr. Chairman, I move that it be made three thousand dollars.

Mr. BOWDLE. Mr. Chairman, I move that we lay the motion on the table.

Mr. BUTTON. It is out of order.

The CHAIRMAN. The point of order is well taken.

Mr. KIESEL. Mr. Chairman, with the consent of my second, I will withdraw my motion.

Mr. VARIAN. Mr. Chairman, I ask the committee of the whole on behalf of our committee to pass this matter until we can get some idea through the report of the committee on salaries or otherwise, as to what the necessities of the case are and what our financial resources are going to be.

Mr. THURMAN. Mr. Chairman, I suggest that we either fill out these blanks or move to strike out the place for the blanks. The committee on executive have introduced here a certain part of a section, which is incomplete, and just why we should now pass something in a crude condition, without try-

ing to perfect it, I cannot understand. This morning, the gentleman from Salt Lake, Mr. James, wanted to make a suggestion, because the committee on corporations were doing something, or were going to offer something, and he voted against a measure this morning, because the committee on corporations was going to do something. At that time we thought that Mr. James was entirely unreasonable, and we voted him down. Now, we meet the very same proposition here. I think we ought to settle this question, and if, when the committee on salaries bring in their report, they have something better to offer than we have, we will adopt that.

Mr. EVANS (Utah). Mr. Chairman, I move you to insert twenty-five hundred after the word governor, in line 17 of section 20.

Mr. CREER. Mr. Chairman, I want to draw the attention of the Convention to this fact, that on the question of salaries, I find that the state treasurer—there is a blank there in the section under consideration—

Mr. JAMES. Mr. Chairman, I arise to a point of order. Mr. Varian made a motion that we pass these salaries and it was seconded.

The CHAIRMAN. The chair holds that a motion to pass is equivalent to a motion to postpone, and the motion to postpone would not be in order in committee of the whole. The only question now before the house is upon the amendment of Mr. Evans, of Utah, that twenty-five hundred dollars be inserted in line 17, after the mark "\$."

Mr. JOLLEY. Mr. Chairman, I want to second that motion.

Mr. KEARNS. Mr. Chairman, I hope at this time that that will not prevail, for this reason: the committee on salaries have not had any chance to get together until the judiciary and other committees reported, and until they find out about how many officers are going to come under the salary list, they

could not do it. The committee will have a chance to fix the whole of the salaries at one time.

Mr. THURMAN. Does your committee intend to fix the salaries of all these officers?

Mr. KEARNS. That was the intention.

Mr. THURMAN. Then, I say if that committee does that, it has no place here. If the executive committee has the right to do it, then your committee has not.

Mr. RICKS. Mr. Chairman, I move to strike out all the section after line 13, and leave it to the committee on salaries.

Mr. VARIAN. Does the gentleman want to strike out all after line 24, in relation to the collection of official fees, etc.?

Mr. RICKS. I think that properly belongs to the salary committee.

Mr. HART. Mr. Chairman, I move an amendment to that, to include the whole section, that we recommend that the Convention refer the section to the committee on salaries.

Mr. VAN HORNE. Mr. Chairman, it seems to me that there is something in this section that this committee should consider at this time, and that is the question of whether we are going to have a fee system for officers in this Territory. It comes, it seems to me, legitimately in this section. That part of it, it seems to me has nothing to do with the committee on salaries, and for that reason should not be referred to them. The objections I have to the striking out of this section are for the latter part of it, beginning on line 29; lines 24, 25, 26, 27, 28, and 29, are covered by section 4 of the minority report on legislative, providing that there should be no extra allowance or fees paid to officers, and that of course, is clearly surplusage.

Mr. ROBERTS. Mr. Chairman, I am opposed to the several amendments. I do not know how many of them there

are now before the house looking to the taking of this matter out of the hands of the committee. It seems to me that we are just as well prepared this afternoon to fix the salaries of these officers, as we will be at any time during the session of this Convention, and there is no reason why we should not immediately fill these blanks with the amount of salary that we think this Territory can afford to pay for the services these officers will be required to give the State. For the life of me, I cannot see that any information we may receive from a committee will materially affect our judgments or aid them in coming to a right conclusion upon these subjects. This committee, at this time, could within possibly ten or fifteen minutes settle this whole matter right now, and for that reason I shall vote against all these amendments and in favor of immediately considering the salaries of these officers.

Mr. CREER. Mr. Chairman, I think the gentleman will observe that we are not prepared to vote upon the salaries of all these officers. Now, I find by reference to section 16, that this article provides the duties of the secretary; 17, the duties of the auditor; 18, the duties of the attorney general; and 19, the duties of the superintendent of public schools, but nowhere does that provide for anything for the treasurer to do, only to be a member of the board of asylum.

Mr. VARIAN. Section 17.

Mr. CREER. Excuse me, I did not notice that.

Mr. HART. I understand the gentleman who made a motion to refer a part of this section is willing to withdraw his motion by consent of the house. If so, I am willing to withdraw my amendment to that, that the whole thing be referred. I, for one, am ready to pass upon the question now, but if any part of the section is going to be referred, I am in favor of referring the whole thing.

Mr. RICKS. With the consent of my second, I will withdraw my motion.

Mr. HART. By consent of the house, I will withdraw mine. Mr. Chairman, I propose to amend to two thousand dollars, instead of twenty-five hundred, in line 17.

Mr. FARR. Mr. Chairman, when it comes to the subject of salaries it necessarily brings me upon my feet. I cannot stand it to sit down any longer. When the motion was to pay the governor one thousand dollars, I felt to second that. I do not know what the object of the gentlemen is to put the salary at two thousand and twenty-five hundred and three thousand, unless they want to swamp this Territory. And it is pretty near swamped now—this State. I am satisfied that we have got to practice economy, or we will go where the rest of the states are gone. I do not want to go there. I want this State of Utah to be an example to all other states. I take pride in hearing the people of other states refer to Utah as being an exemplary State, because the way it has always looked to me, as though they were all going to be swamped in my opinion, the way they are going on to-day—and I think that Utah should set an example for we are here right in the mountains. We hold the key of the whole continent and we ought to set an example and rules of the states and make the salaries of these officers so that we can meet them. We all understand now the condition of the Territory. We are in debt over a million dollars—something near that, in some counties, and many to-day cannot pay their debts. From five hundred to a thousand men have been sold out for taxes and they cannot pay, and if we start out on this basis, the taxes will be doubled right away after this thing should be adopted, and I cannot afford to pay it. I have lived here too long and I have come here to stay, and if we put the salaries so that we cannot afford to pay them, and get

honorable men in to fill for these salaries, these are my feelings about it, and I hope that this body of men won't be careless in fixing salaries. We can find plenty of men that are perfectly competent to fill those offices without high salaries. That is about the way I feel about it, and I want them to take the matter into consideration. We do not want to be swamped with a debt we cannot get out of. I renew the motion to make the salary of the governor one thousand dollars.

The CHAIRMAN. The chair hears no second.

Mr. CREER. Mr. Chairman, I would like to refer to our constitution lexicon, Mr. Eichnor, and find out what the salaries are in the adjoining states—the adjoining states.

Mr. HILL. Mr. Chairman, as our lexicon, I will answer the question. Thirteen states in the confines of the United States, their salaries do not exceed three thousand dollars. The salary in Maine is fifteen hundred dollars, Michigan, two thousand dollars, Delaware, two thousand dollars. Heretofore our governor of Utah has received thirty-five hundred dollars and it appears to me under the existing conditions of this Territory that we should divide the proposition between Mr. Hart and Mr. Farr and make the salary for the governor of this Territory fifteen hundred dollars.

Mr. CORAY. I would like to ask what the salary of the governor of Washington and Idaho is?

Mr. HILL. The salary of Idaho is three thousand dollars.

Mr. BUTTON. What is Wyoming?

Mr. HILL. Wyoming is twenty-five hundred dollars.

Mr. MALONEY. What is Oregon?

Mr. EVANS (Utah). Washington is our example.

Mr. HILL. Washington is four thousand dollars, Oregon is fifteen hundred, Montana is five thousand dollars.

Mr. BOYER. Anything in the treasury?

Mr. HART. Mr. Chairman, I think the amount that I have named here, two thousand dollars, is about the right amount to allow our executive. I am not in favor of exorbitant salaries. I am in favor strictly of economy. I am not in favor of putting the salary so low that only a rich man can afford to occupy the place. I am not in favor of putting the salary so low that a poor man, if elected to the place, that the emoluments and the fees would not be sufficient to enable him to respectably discharge the duties of the office. There are a great many expenses attendant upon the office of State executive. The governor is visited by a great many people passing to and fro through the country. I think that would be peculiarly the case here in Utah. He would be at a large expense every year in entertaining alone people passing from the west to the east and across the continent. I think that two thousand dollars is about the amount that we should fix for the governor.

Mr. CREER. Mr. Chairman, I have computed and it comes as near being twenty-five hundred dollars as any other figure—that is, computing it from ten thousand dollars down to one. There are two states at one thousand dollars each.

Mr. HILL. Mr. Chairman, in reply to what Mr. Hart has said, it appears to me that the balance of this section provides that the actual and necessary expenses for the traveling of these officers are provided for in the latter part of this section. Also in reference to none but the rich being able to maintain the office at fifteen hundred dollars, I very much question whether any but the rich would accept of the position at the figure he has named of two thousand dollars, as there is not sufficient in it for a poor man to accept that even at that figure.

Mr. HART. Mr. Chairman, I did not

refer to traveling expenses, and in addition to the regular work of the executive, I call attention to the fact that we have now placed him upon four or five very important boards, which will consume a large part of his time. He is made a member of the board of pardons, a member of the board of insane asylum commissioners, reform school, and this work will occupy his time pretty thoroughly during the whole year. He will not have time to devote to any business on the side and his income from his labors will be wholly from the salary that we fix for him.

Mr. BARNES. Mr. Chairman, I am greatly in favor of economy in our movements here in fixing of salaries and whatever else may come before us. I have endeavored to pursue that principle in all of my business relations in life. At the same time, I do not think that we can afford to descend too low to what might be termed penuriousness. In looking at the duties that we have imposed upon the governor, if the measures which we have passed upon this afternoon become engrafted in the Constitution, and taking into consideration things referred to by Mr. Hart, that there are necessarily expenses devolving upon the office which I think should be met. I am aware that there is a great deal of honor necessarily attached to the office of governor—a great amount of honor attached to it, but in looking at it all around, I favor the proposition of Mr. Hart, that two thousand dollars per year for the salary of governor.

Mr. FARR. Mr. Chairman, I recollect in traveling through the Territory of hearing a good many express themselves that they were certainly opposed to having a State, because it would increase the burdens of the State, to pay the expenses of running the State so much to what it is now, to run it, as a Territory, as there were so many that were cramped, they could hardly subsist and pay their taxes, and certainly

when the government pays the biggest part of the running expenses—then come to have additional loads put on the people, who feel themselves short to pay their taxes, they felt as though they would be compelled to vote against the Constitution inaugurating the State, because they could not pay the expenses.

Now, that is something that we should consider, if we are going to add to the running of the State so much expenses, whether the people would sustain it or would vote for it. I am satisfied it would be a great benefit and it might be a question—it might be got up by these persons who are opposed to statehood, to go through the Territory and make computations against it becoming a State, because of the hard times, and that they will be called upon to run the government, hence this is one reason why I am in for cutting down the salaries so that the people can live. I think they will not feel to vote the thing down, when it comes to be submitted to them, so I say, keep the salaries down.

Mr. SQUIRES. Mr. Chairman, I want to call the attention of the Convention, and especially Mr. Hart, to the fact that the compensation as now provided will only be during the pleasure of the Legislature. The first Legislature may change it. These figures are put in here for the first term. It might not last more than one term at the figures named.

The CHAIRMAN. The question will first be upon filling in the blank on motion of Mr. Evans, of Utah.

The question being taken on the motion, the committee divided, and by a vote of 45 ayes to 32 noes, the motion was agreed to.

Mr. FRANCIS. Mr. Chairman, I move that the salary of secretary of state be twenty-five hundred dollars.

Mr. STOVER. Mr. Chairman, I move as an amendment, that it be placed at two thousand dollars.

Mr. CANNON. Mr. Chairman, I am in favor of the motion of Mr. Francis, that the salary be twenty-five hundred dollars, for the reason that a great deal of work is required of the secretary of state, and I believe that the fees that he will receive, and which, by this article, are to go to the State, will more than pay the compensation. I favor leaving him at twenty-five hundred dollars.

Mr. CORAY. I would like to ask Mr. Cannon a question. What is the work of the secretary of state—what constitutes his labor? [Laughter.]

Mr. CANNON. They are so numerous it would take all afternoon to enumerate them.

Mr. CORAY. Is it not mostly in the line of bookkeeping?

Mr. CANNON. I call the gentleman's attention to the fact that in the absence of the governor the secretary of state becomes the acting governor, I think, and he has a great deal of work to do in connection with the various departments, and in addition to that, articles of incorporation are filed with and he issues commissions to notaries public and other officers.

Mr. FRANCIS. Mr. Chairman, I just wish to say that I understand that at times the secretary will have to perform the duties of the governor, and as has been already stated, his labors are greater almost than any other officer.

Mr. IVINS. When the secretary of state performs the functions that devolve upon the governor, he receives the same compensation that the governor does, under section 11. He receives his emoluments.

Mr. SNOW. Mr. Chairman, I am in favor of the amendment. I think twenty-five hundred dollars ought to be the maximum salary for our officers, no matter where they are or which one it is. I do not think when we have started a list at twenty-five hundred dollars that we need necessarily follow it out all down the line. There should be a discrimination made. I think two thou-

sand dollars is sufficient salary for the secretary of state. I do not think the servant is greater than the masters. We ought to take into consideration the masses of the people, how they earn their money and how hard it is for them to get money to pay their taxes. Every dollar of these salaries will have to be raised by direct taxation, and it will be a burdensome thing for the people to bear. I am opposed to high salaries all around, and I say that I will not vote for any salary higher than twenty-five hundred dollars, and I think the governor is the only one that is entitled to that compensation. I am in favor of two thousand dollars for the secretary of state.

Mr. CANNON. Do you know what the present compensation of the secretary of the Territory is?

Mr. SNOW. I believe, sir, that it is about six or eight thousand dollars. I think it has been an outrage upon the people of this Territory, who have had to pay the fees in. I think it is time we made a reform.

Mr. CANNON. I would like to ask the gentleman if in his opinion a man who does twice the work, should receive one-fifth less salary?

Mr. SNOW. I think the work is all of a different character. I think the work of a secretary of state is more of a clerical character than the functions of the governor. I do not doubt but what he has a great deal of work to do, and I think two thousand dollars is sufficient compensation.

Mr. ROBERTS. Mr. Chairman, I just merely want to add this in line with what Mr. Snow has said on the subject—to call attention to the fact that the secretary of state, even if his labors should be equal to that of the governor, would not have the demands of hospitality upon him that the governor is likely to have. And for that reason, I should favor that the sum of two thousand dollars instead of twenty-five hundred dollars be fixed. When you

take into account the fact that the governor will have to expend not only all the salary he gets, but possibly several thousand dollars more per annum, in the way of keeping up a hospitable governmental establishment, I think that there should be at least that much distinction between his salary and that of the secretary of state, and for that reason, I shall support the two thousand dollar limit.

Mr. CREER. Is it not a fact that he will have to employ an assistant?

Mr. ROBERTS. Who?

Mr. CREER. The secretary of state.

Mr. ROBERTS. I am sure, I cannot say.

Mr. CREER. It is almost sure he will have to employ an assistant.

The motion of Mr. Francis was rejected.

The motion of Mr. Stover was agreed to.

The CHAIRMAN. What will be the amount for state auditor?

Mr. VARIAN. I move that it be two thousand dollars.

Mr. RICKS. I move that it be fifteen hundred dollars.

Mr. ELDREDGE. I move to amend by making it eighteen hundred dollars.

Mr. EVANS (Utah). I would like to know what he gets now. I think it would have something to do with governing us, perhaps.

Mr. IVINS. Mr. Chairman, the last Legislature appropriated four thousand dollars as salary for the auditor of public accounts, and seven hundred and fifty dollars for rent, and four hundred dollars for incidental expenses, this would be for two years. It would be at the rate of two thousand dollars a year with his rent and incidental expenses provided for.

Mr. HAMMOND. Mr. Chairman, I am in favor of this amendment of fifteen hundred dollars for the auditor. San Juan people may be poor, which I do not admit, but they are not mean. They are willing to pay a fair price and

salaries for their public officers. Now, it is a fact that a good overseer or foreman of our cattle companies down there gets from eighteen hundred to two thousand dollars a year, and I am in favor of this amendment.

Mr. EVANS (Utah). Mr. Chairman, it seems like we have begun in this matter by cutting down. It seems to be the spirit of this Convention that our salaries should be fixed at a nominal sum and not be extravagant. We begun with the governor by cutting down one thousand dollars, with the secretary of state by reducing his from what it has been heretofore very materially, and I think that we ought to continue in that line and I think that fifteen hundred dollars is sufficient for that office, and I should cast my vote for that.

Mr. HILL. Mr. Chairman, it appears to me, notwithstanding my position on the question of governor, that if we place the salary of the auditor at eighteen hundred dollars we are doing him an injustice, that, as has been stated here this afternoon, and gentlemen making the statement are correct—have been paying almost three times as much, in fact more than three times as much as the amount mentioned here, two thousand dollars, and I trust that this motion will prevail. A man who occupies the position of auditor, I consider, occupies a more responsible position than the governor of the Territory. Therefore, I trust that the members of this Convention will vote to give that gentleman two thousand dollars.

The motion of Mr. Varian was rejected.

The motion of Mr. Eldredge was rejected.

The motion of Mr. Ricks was agreed to.

Mr. RICKS. I move that the salary of the state treasurer be fixed at one thousand dollars.

Mr. HART. Mr. Chairman, I move to amend by fixing the sum at two thousand dollars.

Mr. BOWDLE. Mr. Chairman, I move we fix it at fifteen hundred dollars.

Mr. EVANS (Utah). I move to amend by making it one thousand dollars.

The CHAIRMAN. There has been one motion for a thousand dollars.

Mr. SQUIRES. Mr. Chairman, I just rise to a question of information. We have got down now to a thousand dollars for the state treasurer. If we adopt this proposition, I expect the next proposition will be to give the attorney general about five hundred dollars.

Mr. THURMAN. That is plenty.

Mr. SQUIRES. And then the superintendent of public instruction will serve like a country school teacher—serve for nothing and board around.

Mr. KIESEL. Mr. Chairman, I would like to know about how much bonds will be required of the treasurer?

Mr. SQUIRES. A half million.

Mr. KIESEL. Well, would not that cut a figure?

Mr. THURMAN. You had better reduce the bond rather than to increase the salary.

Mr. KIESEL. What will be the duty of the treasurer? Is he liable to have a great deal of money in his hands?

Mr. EVANS (Utah). Put it in the bank and issue his warrants.

Mr. RICKS. Mr. Chairman, I believe one thousand dollars is sufficient. I believe that any banker in this city would be glad to accept that position at one thousand dollars, in order to get to handle the money.

Mr. MORITZ. Mr. Chairman, I think we will have over a thousand in this city that would be glad to have the position for six hundred dollars a year.

Mr. VARIAN. Mr. Chairman, now, the suggestion made by the gentleman, Mr. Ricks, seems to me ought to be considered a little more. Do you intend that you are going to embark upon this enterprise of a State government with the system of permitting your public funds to be utilized by private individu-

als and bankers? That is the rock upon which the people of Colorado split, and they have returned now to the true principle of defining the duties of the custodian of your public moneys and requiring him to keep the money so that when called for, it can be had, paying him a reasonable compensation for that duty. I, for one, object to this system of farming out the public revenue, depositing it with private bankers, who are to use the money for their own private purposes and the State is to take the risk, when it needs the money, of finding it. Business reverses may overtake them. It is against the true principle and system of government, and we ought not to legislate in that view. We ought not to fix salaries in that view.

Mr. STREVELL. I would like to ask for information, if there is not in some of the articles that we have had before us a clause which prohibits the treasurer from profiting from the State funds? I have been looking for it. I have not been able to find it in the records that I have, but I think there is some such clause as that.

Mr. CANNON. I have the clause if the gentleman would like it read. It is from the article on revenue, taxation, and public debt, section 9. Of course, that has not been adopted, but I do not think that anybody will object to it.

Mr. STREVELL. That is what I had in mind, but I was unable to locate it, and I was wondering if Mr. Ricks, in making his motion, had in mind or knew of that provision. It seems to me if that provision be adopted by this Convention that one thousand dollars is not sufficient salary to pay.

Mr. ROBERTS. Mr. Chairman, I shall vote for the sum of two thousand dollars for that officer. I am in favor of economy, and I am also in favor of safety in handling the money of the people, and I cannot believe that you can get good men to fill such a position as that, and give the required bond,

who would be willing to work for one thousand dollars a year, nor for fifteen hundred dollars a year, and I do not believe that the line of true economy lies in getting inferior men in those positions. We require for these officers men of character, men of standing, and I would be in favor of paying them what I would consider a reasonable compensation for their services, taking into account their responsibilities and the character of men that the State needs to serve them in those offices. And for that reason, in a mad streak of economy, or supposed economy, I am not willing for one to consent to the cutting down of these prices in these officers of the State.

Mr. SMITH. Mr. Chairman, I am in favor of the one thousand dollars, for this reason, that I suppose that two months in the year would be all the time that would be required at the hands of the treasurer. Many a good man in business, looking after his own business, could just as well attend to that matter and pocket the square two thousand dollars without any particular labor. Therefore, I am in favor of the lowest sum on this proposition.

Mr. EVANS (Utah). Mr. Chairman, I find by reference to the compensation now being paid that it is exactly one thousand dollars. As has been remarked by the gentleman who preceded me, perhaps two months in the year will be about all the time that he will be very busy. It appears to me that the way we are starting in, the salaries that we are fixing, that it will not take him long to consume all this Territory will be able to pay in paying out his warrants. I am in favor of voting for the provision in the revenue and taxation article that that money should be kept separate, and I believe that a thousand dollars will warrant and secure just such a man as will be able to do that—a man of stability, that will not take or consume anywhere near his whole time—perhaps

one-fourth of the time, and that will pay for the responsibility that is attached to it, and I do not think there is any special chance to take. It is what we have been paying and I think it is plenty and I shall vote for it.

Mr. BOWDLE. I would like to ask the gentleman who just took his seat one question. Would not the duties and labors of the treasurer of a state be greater than that of a territory?

Mr. EVANS (Utah). Perhaps so, but we are cutting down. That is the point. It is on that basis that I am willing to vote for it at all, because he will do more work. Consequently we are reducing his salary.

Mr. BOWDLE. If that is the principle I have not anything to say.

Mr. HART. Mr. Chairman, in proposing the sum of two thousand dollars for the treasurer I have in mind the large bond he will be required to give, if he has to go among his friends and solicit them to become his bondsmen. It is a matter that is worth something; or if he chooses another method and gets a bond from a surety company it would cost him a large part of the one thousand dollars to get his bond for the year. I do not know just what it might cost him if he should adopt that method, but I imagine it would cost somewhere in the neighborhood of four or five hundred dollars. It is certain that the treasurer will be able to make out of that office just about what he wants, even though we have a penalty. Like Mr. Varian of Salt Lake, I am not in favor of farming out public moneys, such as would be suggested by the remarks of Mr. Ricks. I think that you should give him such a salary as will compensate him for the bond that he has to give for the great responsibility attaching to the office, and prevent a possibility of his farming out the moneys even though you have to have a penalty. If he is not getting sufficient out of the office, he will make it up in some way, and if he was inter-

ested in that kind of work there will always be just such cases when there is a proposition to draw money out of the treasury, will be to his interest to hold it back, and there is a great chance for quibble on whether a sum of money should be paid out or not. He always has it within his power to hold back on some technicality or another instead of paying money out. I am, therefore, in favor of the main proposition.

Mr. THURMAN. Mr. Chairman, I trust the amount we put in the bank will not exceed two thousand dollars. If that is all that the treasurer under the territorial law has been getting, it is all that we may hope the people of the State are going to be willing to vote for him to have. If there is any one thing that the people of this commonwealth are going to do, they are going to make comparisons between the salaries that we vote to officers here and the salaries that those same officers have been getting in the past, and I state now this to be my deliberate opinion, that if anything will cause the people to vote against this Constitution, it will be when they come to examine and figure up the amount of expense incident to State government they find it greatly in excess of what the Territory has had to pay in the past. There is no position that I can think of just now that I am willing to vote to give that officer any more for the performance of under the State government than under the territorial government; and for the reason that I want the people to be satisfied with the Constitution. They will have a chance to fix those salaries through their Legislature. There will be the opportunity for men to go before the people and the people to instruct their legislators just what they want them to do in relation to fixing these salaries. We talk here about giving the people a chance to vote on questions. Here at least is an indirect way of giving the people a chance to vote as to what these salaries shall be, and if the salary

in the past has only been a thousand dollars or is a thousand dollars at the present time, let it continue a thousand dollars until the Legislature shall otherwise provide by law.

Mr. CREER. Mr. Chairman, I am in accord with the last speaker, and so far as I understand this matter of bonds, if we will take care to elect an honest man, I do not think it will cost him one dollar to obtain the bonds necessary over and above what it will cost to make out the papers.

Mr. MURDOCK (Beaver). Mr. Chairman, we frequently hear, it is said in all of our circles, I presume, that the office should seek the man, not the man seek the office, and that is just what we are doing I trust. If men are not ready to take hold of the office, we probably will be able to seek the man who is capable of taking hold of the matter. I do not think it is good policy to pay men to be honest. They frequently talk about men who occupy positions of trust that they should have enough so that they can be honest with the business. I think we are just as liable to get honest men for a reasonable salary, as we are to pay them a great big salary, so that there will be so much scrambling by such a great number to get a position, and I believe that we are taking the course that the office will seek the man and not the man seek the office.

Mr. CORAY. Mr. Chairman, I agree with the gentleman who has just spoken in regard to that. It seems to me that the main thing we desire is honesty and reliability, and I believe there are more reliable men to-day working for less than a thousand dollars a year than there are for more than that. I think this is enough.

Mr. HART. Mr. Chairman, I would like to know whether any member of the Convention knows what the salary of the treasurer was previous to the last session of the Legislature? If I remember correctly, it was cut down

very materially. I was of the opinion it was two thousand dollars as it stands now.

Mr. EVANS (Utah). It is two thousand dollars for the two years as shown by the appropriation for the last two years.

Mr. HART. What was it previous to that?

Mr. EVANS (Utah). I cannot tell you.

Mr. BARNES. Mr. Chairman, while this is largely a matter of honesty it is also to a very great extent a matter of responsibility. Now, I do not know whether I would accept that position for one thousand dollars a year, with the responsibilities on it, as much as I like office, and consequently I do not think one thousand dollars a year is enough, gentlemen. I would prefer we made it more.

The motion for two thousand dollars was rejected.

The question being taken on the motion for fifteen hundred dollars, the committee divided, and the vote being a tie, the chairman voted in the negative, and the motion was rejected.

The motion for one thousand dollars was agreed to.

The CHAIRMAN. The next is the attorney general.

Mr. PAGE. Mr. Chairman, I move to insert the sum of twenty-five hundred dollars for the attorney general.

Mr. CANNON. Mr. Chairman, I move an amendment to that, that we fix it at fifteen hundred dollars.

Mr. VAN HORNE. Mr. Chairman, I move we fix it at one thousand dollars.

Mr. SQUIRES. Mr. Chairman, I move to keep up the regular order of progression. I move we make it five hundred dollars.

Mr. PAGE. I believe, Mr. Chairman, that the ability required to fill that position properly is equal to the ability of filling any of the other positions that we provide for, and the duties of that office, I am satisfied, are really more im-

portant for the benefit and advancement of the Territory possibly than that of any other position. I hope that the motion for twenty-five hundred dollars will prevail.

Mr. ROBERTS. Mr. Chairman, I call attention to section 18 of this article on executive, where the duties of attorney general are stipulated. I do not think, sir, that it is intended to make him the public prosecutor of the State, and, following the arguments that have been used heretofore, I presume that very many attorneys would be able to give the legal advice necessary to the State officers and not take up very much of their time, and in view of the fact that the attorney, by devoting possibly an hour or two each week to giving the little advice to the State officers, or whenever they might apply for advice—I think, sir, that it ought to hold good, that it is not going to be very much of a duty to fulfill, and therefore, the sum of one thousand dollars at least will be ample as a remuneration for his services, and I shall vote for that sum.

Mr. SMITH. Mr. Chairman, I was just going to ask a question, and that is whether the attorney general of the State would be allowed under the rules that exist in the courts, to take cases and look after other legal business, or whether, as is the case with judges, he would have to forego that in the discharge of the duties in connection with this office? If they are allowed to take other business and simply render aid upon some of the occasions as the other officers of the State might require, I am in favor of a lower salary.

The CHAIRMAN. Except where the State was a party, he would be permitted to practice in all cases. Of course, he could not practice in criminal cases, but he could in civil cases.

Mr. JAMES. Will Mr. Varian tell me what the attorney general gets in Nevada?

Mr. VARIAN. I think it has been reduced to about two thousand dollars.

Mr. JAMES. What is it in Washington, Mr. Eichnor?

Mr. EICHNOR. Two thousand dollars.

Mr. KIESEL. It is twenty-five hundred in Idaho.

The CHAIRMAN. Fifteen, is it not?

Mr. CHIDESTER. Mr. Chairman, section 18 contemplates that there may be other duties imposed upon the attorney general by law by the State Legislature—

Mr. ROBERTS. May I ask the gentleman a question? If that same clause is not also attached to the section providing for the auditor and also for the secretary of state?

Mr. CHIDESTER. Yes, I presume it is, but I believe that this reaches further, if it is contemplated by this section that the attorney general shall conduct the legal business in behalf of the State, such as prosecuting and the like of that, he could not begin to do it for that sum. Was that the intention?

Mr. VARIAN. The duties of the attorney general, Mr. Chairman, would be as suggested, to advise the State officers, attend to all business, criminal and otherwise, of the State in the supreme court. But in exceptional cases, he might be invited and might go out into a county to assist in the prosecution of some important matter. They generally do that, but they are not obliged to.

Mr. CHIDESTER. Under the present system, there is to be several deputies or assistant prosecuting attorneys, would he have to pay them himself?

Mr. VARIAN. No; I think the gentleman misapprehends it. There will be a system of county or district attorneys who will attend to all matters of the kind indicated in the nisi prius courts. The attorney general simply takes the cases on appeal, briefs them, and argues them in the appellate court. If there are any civil cases to which the State would be a party, it would be his

duty to bring them or defend them, as the case might be.

Mr. CHIDESTER. It is a question in my mind then, whether or not he can do that for the sum of one thousand dollars. That involves him in quite a labor in taking up these cases on appeal, etc. I understand now that the county attorneys, of course, will take a great deal of labor off from the prosecuting attorney, and that, under the present system, that has heretofore been the duty of the prosecuting attorney to perform, but of course if this Convention thinks that the prosecuting attorney can perform that duty for one thousand dollars, I am in favor of reducing salaries as much as any one else, but the only question in my mind was whether we could possibly get a prosecuting attorney to accept of that office for one thousand dollars, that is the question.

Mr. SMITH. Mr. Chairman, I do not want to take up the time of the Convention in discussing this matter. I take this view of it, that the position gives the man standing and will add to his practice if not prohibited from taking other practice, and that almost any right shrewd, moving attorney in the Territory would be mighty ready and willing to take it at one thousand dollars with the chance of being attorney general and enhancing and enlarging his practice and standing in his profession, therefore, I am in favor of one thousand dollars.

Mr. THURMAN. Mr. Chairman, section 18 provides that the attorney general shall be the legal adviser of the State officers, etc. This article also provides that the salaries fixed here shall continue such until otherwise provided by law. As a legal adviser for the State officers, I think that the sum of fifteen hundred dollars is enough. If the Legislature imposes other duties upon him, the same Legislature, if they find in their judgment that fifteen hundred dollars is not enough in consideration of

the extra duties they are imposing upon him, it will be their duty to raise the salary in accordance with the duties that are imposed upon the officer by law. I think, however, that the salary ought to be about fifteen hundred dollars. I draw the line of distinction between the treasurer which we have just voted upon and the attorney general, in this respect, that a man will be able to attend to his other business and that with very little interruption of his other business and discharge the duties of treasurer.

Mr. HART. The only duties, Mr. Chairman, that the attorney general would have under this Constitution would be the local adviser of the State officers and member of the board of pardons and of the board of reform school and of the state prison, and fifteen hundred dollars would be ample compensation it seems to me for all of those duties. No doubt the first Legislature will require of the attorney general that he shall represent the State in all civil cases. It is very probable that they will also require that he shall represent the State in all criminal cases that are appealed to the supreme court, for the reason that if the judiciary article as proposed by the judiciary committee goes through there will be no district attorneys. There will be simply county attorneys, who may not be able to represent the State in criminal cases in the supreme court. At least, not to such good advantage as the attorney general would. It is very probable that the attorney general, therefore, will be required to represent the State in all criminal cases in the supreme court and in all civil cases in which the State is a party, but until those duties or other duties are imposed upon the attorney general, I am not in favor of giving him any more than fifteen hundred dollars.

Mr. VARIAN. Mr. Chairman, I am not really prepared to say—I do not know as I have an exact judgment in

my own mind, as to what the salary ought to be, but I want to call attention to this fact, if a lawyer is elected who lives away from the capital, he goes from the place where he has built up his business and from his home amongst the people who know him. When he comes here, he finds the field of legal work fully occupied. It will be very difficult for him to add to his professional practice, certainly during the first term for which he was elected, and not at all, until he has had an opportunity to indicate to the people what he can do, and what he is worth, so that to that extent the argument of my colleague from Salt Lake City could not, it seems to me, prevail. He would certainly have to depend alone on his salary for his first term. Now, if the Legislature should impose additional duties upon him, still that Legislature cannot increase his compensation during the term for which he shall be elected, because you prohibit that in this Constitution—that is the intention, as I understand it, to prohibit the increasing or diminishing of his salary during the term of the incumbent. All those things ought to be considered, of course. It is quite probable you may find in this district a number of desirable persons who will be willing to take the office for fifteen hundred dollars or two thousand dollars in addition to the practice they already have.

Mr. THURMAN. Mr. Chairman, in view of the suggestion made by the gentleman, which had not occurred to me before, that a salary could not be changed, would it not be better in this connection to provide an exception in cases of the first officers and permit the Legislature to fix it in accordance with the increased duties that they may impose?

Mr. VARIAN. Well, I do not know, Mr. Chairman. It occurs to me—

Mr. CHAIRMAN. That is not before the committee anyway.

The motion to fix the salary at

twenty-five hundred dollars was rejected.

The motion to fix the salary at fifteen hundred dollars was agreed to.

The CHAIRMAN. The next is the superintendent of public instruction.

Mr. EICHNOR. Mr. Chairman, I move to insert the sum of fifteen hundred dollars.

Mr. SMITH. Mr. Chairman, just for information, I would ask if it is not likely that the superintendent of public instruction, if he devotes himself to it—if it will not take his entire time? It seems to me that this is going to require the strict, complete, and whole attention of the man who would be elected superintendent of public instruction.

Mr. VARIAN. Mr. Chairman, I move that we make it two thousand dollars.

Mr. EVANS (Utah). Mr. Chairman, I see by looking over the schedule, he now gets a thousand dollars a year and four hundred dollars for his expenses, and I think we want to be very careful, as has been suggested by my colleague from Utah County. The people are going to examine these records, and there is not anything, that I know of, that would have a tendency to cut down or to endanger the adoption of the Constitution, like taxing the people. I have been among them, and I know that is the sentiment, and it is the prevailing sentiment, that if that Constitution is so arranged that the salaries are going to be high, and the taxes are going to be increased, until people will be burdened with them, they are going to vote it down, or else they state that that they do not calculate to do, and I am in favor of having it one thousand dollars.

Mr. FARR. Mr. Chairman, I think there is one very great redeeming clause in this article, that is, that these salaries do not necessarily need to remain only until the next Legislature meets. It is on that ground that I have kept my seat and been quiet. I have been

told by scores, and I do not know but hundreds, that if the salaries were not reduced to reasonable sums, that they would vote against having this a State. They prefer having it remain a Territory, because they could not live and pay the taxes higher than they were paying. I told them that, as I was a member and was elected to come, that if I could have my way about it, I should go in for reducing the salaries of all the State officers, the county officers and city officers, fifty per cent, and then they will have more than we got when this Territory was first organized for the first thirty years, and four times as much in comparison. Hence I am in favor of putting these salaries down as low as reasonable so that they can live by it, and hence I shall say one thousand dollars on that.

Mr. EICHNOR. Mr. Chairman, if I should fix the salary according to my own personal view, I should fix it at higher than fifteen hundred dollars, but I think the tenor of this committee is in favor of low salaries. The superintendent of public instruction—I do not think that he can do any other work. He must devote himself to that position. You may possibly elect a county superintendent of some county, and make him also superintendent of public instruction of the State, but I think that would be injurious to the State at large. I have had considerable experience with school matters, and as I said before, if I could fix the salary, I would fix it at twenty-five hundred dollars. I am in favor of low salaries, but it should not be lower than fifteen hundred dollars.

Mr. MALONEY. Mr. Chairman, I do not understand that our present superintendent devotes all of his time to his duty as such superintendent. I want to say to you, Mr. Chairman, that I am for low salaries all along the line. The people of this Territory now are burdened down. I know farmers' wives are knitting lace for the purpose of

accumulating money enough to pay their taxes, and I say to you, if the people of this Territory are loaded down with taxes more than they are now, it will defeat the Constitution. I say the whole matter ought to be fixed as low as possible, then let the Legislature fix the salaries.

Mr. EICHNOR. May I ask a question? Have you ever taught school?

Mr. MALONEY. No, sir; and never expect to.

The motion to fix the salary at twenty-five hundred dollars was rejected.

The motion to fix the salary at two thousand dollars was rejected.

The question being taken on the motion for fifteen hundred dollars, the committee divided and by a vote of 32 ayes (noes not counted) the motion was rejected.

The motion to fix the salary at one thousand dollars was agreed to.

Sections 21 and 22 were read.

Mr. HART. Mr. Chairman, it seems to me that the secretary of state should be the keeper of the great seal of the State. The secretary I believe will be the custodian of all official papers and files pertaining to the office of executive of the State, and it seems to me, if the governor be made keeper of the seal, it would be a very awkward matter for the secretary. Suppose he was called upon to keep a certified copy. I move to amend by striking out the word governor in the second line and inserting the word secretary in lieu thereof.

The motion was agreed to.

Section 23 was read.

Mr. HOWARD. Mr. Chairman, I would move that after the word governor, on line 2, the words, "except United States commissioners and postmasters of the fourth class," be inserted.

Mr. VARIAN. Mr. Chairman, so far as United States commissioners are concerned, they are not officers. That is to say, they will not be officers in the sense used here after this State shall become

such. A United States commissioner is simply an officer of the federal court. He has none of the functions to perform that are now imposed upon him by law under special act of Congress. In relation to this Territory, and the way we read this section, it refers only to the State officers and not the county officers. We have no objection, however, to the insertion of the words, "postmasters of the fourth class."

Mr. HOWARD. From what Mr. Varian has said, probably United States commissioners will not be necessary to be put there.

The CHAIRMAN. Do you withdraw that?

Mr. HOWARD. I withdraw that but still hold to the postmasters of the fourth class.

The amendment was rejected.

Mr. EICHNOR. Mr. Chairman, I move to amend section 23 by striking out the fourth, fifth, sixth, and seventh lines.

The motion was rejected.

The committee of the whole then rose and reported as follows:

The committee of the whole have had under consideration the article on executive and have considered the same and recommend that it be placed upon the calendar and come up in its regular order for its third reading.

Mr. VARIAN. Mr. President, for the information, and by request of members, and for the information of the Convention, I desire to give notice that on Thursday next, under the appropriate order of business, which will be, I presume, motions and resolutions, I shall move a reconsideration, in accordance with previous notice, of the vote by which the article upon elections and suffrage passed. I desire everybody to have full notice of it.

Mr. THURMAN. Mr. President, I move that the motion which the gentleman from Salt Lake will then make be made the special order for that time.

The motion was agreed to.

The Convention then, at 5:06 o'clock p. m., adjourned.

FORTY-FOURTH DAY.

TUESDAY, April 16th, 1895.

Convention was called to order at 10 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Rev. Clarence T. Brown of the Congregational Church.

Journal of the forty-third day's session was read and approved.

Mr. Creer was excused for the day.

The following petitions were presented asking that the question of woman suffrage be submitted as a separate article to a vote of the people:

File No. 309, signed by Eliza A. Hall and 125 others from Portage, by Gibbs, of Box Elder.

File No. 310, signed by Geo. Austin and 90 others from Lehi, by Evans, of Utah, by request.

File No. 311, signed by Paul Cardon and 20 others from Cache County, by Warrum, of Cache.

File No. 312, signed by Wm. Pulsipher and 64 others from Paradise, by Hart, of Cache, by request.

File No. 313, signed by G. Mansfield and 40 others from Washakie and East Portage, by Gibbs, of Box Elder.

File No. 314, signed by John Barraclough and 44 others from Beaver, by Roberts, of Davis.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 315, signed by Jos. Cameron and 114 others of Panguitch, by Chidester, of Garfield.

File No. 316, signed by Thos. Wilson and 52 others of Rich County, by Nebeker, of Rich.

File No. 317, signed by F. M. Neff and 25 others of East Mill Creek, by Chidester, of Garfield.

File No. 318, signed by Caroline

Flowers and 303 others from Mill Creek ward, by Cannon, of Salt Lake.

The Convention, on motion, resolved itself into committee of the whole with Mr. James in the chair, and proceeded to the consideration of the article on labor and arbitration.

COMMITTEE OF THE WHOLE.

Section 1 was read.

Mr. PARTRIDGE. Mr. Chairman, I have an amendment to offer to section 1, as follows: By striking out in line 2, after the word "calculated," down to and including the word "and," in line 4. The object of that amendment is to leave the other part of it to the Legislature. I think that will cover all the ground necessary.

The amendment was agreed to.

Mr. STREVELL. Mr. Chairman, I move to amend by inserting after the word "labor," in line 2, the words "conciliation and." The reason I propose this amendment is, I believe that the principal duties of such a board would be in the nature of conciliation. I believe that in New York state, in the last year, the board of arbitration there were really called upon to settle but about eight strikes, and there were some four hundred cases brought to their attention, and in the majority of cases, through the effect of mediation and conciliation, they were able to bring employer and employe face to face, and they effected a settlement before it reached a strike. And also in view of the fact, that the bill which was introduced in Congress last year, provides for a national board of conciliation and arbitration, and I have thought it would be better to add those words.

Mr. PETERS. Mr. Chairman, I move to strike out all after the word "labor," in line 2, to the end of the section. I think it is purely legislation and wholly unnecessary.

Mr. CANNON. Mr. Chairman, I move to strike out the entire section. My

reason for making that motion is that it is a purely legislative. We have never, in Utah, had difficulties enough of a labor character to require the insertion in the Constitution of a section of this kind. I believe it should be left to the Legislature. I do not think that it is the place to have it in the Constitution.

Mr. EICHNOR. Mr. Chairman, I am opposed to all the amendments and the motion to strike out, except the amendment offered by Mr. Strevell. There are 11 lines there. I think it comes almost with bad grace for this committee at this time to talk about legislation. Yesterday we legislated nearly all the afternoon, and now when it comes down to the working man, why "don't give him any show." I admit that it is legislation to a certain extent, but it can bring no harm to any one and it shows a good spirit.

Mr. STREVELL. Mr. Chairman, I hope this motion to strike out the entire section will not prevail. It seems to me that many of the constitutions which I have examined in these new western states have a provision for a board of labor arbitration, and while it may be true, as the gentleman from Salt Lake says, that at this present time there may be no very great need of it, I judge that we are building a Constitution, or attempting to do so, that will last some little time, and it seems to me that this article may be productive of very great good. Many strikes may be averted in this way and there will be a large loss of life and property, and I think it can be very largely avoided, if we have a provision which will create a board of conciliation and arbitration, and then if that is followed up by having the proper men appointed on the board, I believe that great good can be done, but I hope that this section will not be stricken out.

Mr. CANNON. I desire to ask Mr. Strevell whether or not the Legislature would not have power to create such a

board without this section being in the Constitution?

Mr. STREVELL. I suppose they would do so, but my understanding of the matter is from men who are in a better position to pass upon this question than I am, certainly; they claim that it would be better to have a constitutional provision, and for that reason, I am in favor of the amendment offered by Mr. Peters—I am stretching the answer a little bit, to cut out what is purely legislation and give the constitutional authority for the creating of the board and leave everything else to the Legislature.

Mr. MALONEY. Mr. Chairman, I trust the amendment offered by the chairman of the committee, Mr. Strevell, will prevail. The very first line provides that the Legislature shall provide for the board of labor arbitration. Now, that is the foundation stone upon which the Legislature begins to operate and it is wrong for us to ignore the labor interests of this Territory. We have great corporations of great railroads. Last year we saw a strike which assumed national importance—a strike which the military of the government had to put down. Especially is that true in this Territory. Now, if by mediation and conciliation we can bury all these differences, I think it decidedly better for the interests of capital and the labor interests of the country that we do something in that direction, or in other words, lay the foundation by constitutional provision by which the Legislature may take hold of this thing and do something by which these strikes may be prevented. I am in hopes that none of these amendments will prevail, except that offered by the chairman himself. And again, this is in accord with the report of the Wright arbitration measure presented to the house of Congress which I hold in my hand. I say it is a step in the right direction, and now that we are laying the foundation timbers of a great intermountain

State we should not ignore these great labor interests. I say it is highly important that we leave this proposition as it is, with the exception of the amendment offered by Mr. Strevell.

Mr. BUTTON. Mr. Chairman, Mr. Maloney has covered in his remarks about all I would have said.

Mr. VARIAN. Mr. Chairman, the section as it stands seems to be inconsistent. The first clause down to line 7, down to and including the word employes, provides for a board of conciliation and arbitration. Then provision is made for a tribunal with power to hear and determine all differences and controversies which may be submitted to them by either of the parties. I do not know what the intention is, but certainly that is a very strange provision to have in a constitution or law. Either party to a difference may select a quorum like this and then give such a tribunal power to determine that question. It is investing this board with judicial power, and there seems to be no choice of selection either. It reads, "If either party shall submit a controversy." Now, there may be no objection to the first part of the section to provide means for the settlement by arbitration or conciliation of controversies, if it can be done in that way, but to take away from either party the constitutional right to trial by court and jury, because the other party chooses to submit it to a board of this kind, I am not prepared to vote for. I think all after the word employe ought to be stricken out, the first three lines for the reasons I have indicated, and the last three lines because they are unnecessary. The board would perform naturally such other duties and would receive such compensation, and none other, as would be provided by law. I move to strike out all after the word employe, in line 7. I call attention of the chair that this motion ought to be submitted first in order to perfect the sec-

tion before the motion to strike out entirely is put.

The CHAIRMAN. The chair will hold that the motion is not in order. The motion in order is to strike out.

Mr. VARIAN. Will the chair please indicate why it is not in order—my motion to strike out part of the section?

The CHAIRMAN. Your motion is in the nature of an amendment to perfect the section, while there is a motion made to dispose of the entire section.

Mr. VARIAN. I will take an appeal from the decision of the chair. I would like to hear on this question from some gentlemen who have discussed it heretofore a dozen times, my colleagues on the committee on rules; this is an important precedent. I lay down this proposition, that a motion to strike out the entire subject matter of the section, if it is not carried, is equivalent to a motion that the section shall stand and you cannot subtract from any particular portion of that section if the motion shall not prevail. Therefore, we must, assuming the possibility that the motion to strike out may not prevail, we must of necessity, if we desire to perfect the section, submit other motions and the motion to strike out a part of the section, if it shall carry, would leave the section in a condition to be voted upon by the house upon the motion to strike out the entire section, and then if that motion should be voted down, the matter remaining would be just as the house wants it to stand.

The CHAIRMAN. Mr. Varian, will you explain to me what would become of the two amendments that are already offered?

Mr. VARIAN. Well, I simply say this, I do not claim this motion to strike out a part need necessarily interfere with the other amendments to that, but I say that it ought to be submitted before the motion to strike out the entire section is submitted, for the reasons I have indicated.

Mr. EVANS (Weber). Mr. Chairman, as I have repeatedly said, I do not pretend to be much of a parliamentarian, but in this matter, I am decidedly of the opinion that the chair is right. As I understand the situation now, Mr. Strevell has offered an amendment, by inserting the words, "conciliation and," after the word labor, in line 2. Then Mr. Peters moved that all after the word labor, in line 4, be stricken out. Then Mr. Cannon moved that all of section 2 be stricken out. There are three amendments now pending before the amendment offered by Mr. Varian to strike out all after the word employe in line 7. That would make the fourth amendment, which, under any parliamentary rule that I am familiar with, would not be right. But aside from that, I go deeper into the question, and according to my view of it, where a motion is pending to strike out an entire section, it is useless to undertake to perfect that section and then have the motion prevail to strike out that which has been done prior to that time. Now, it looks to me like a common sense rule. Here is Mr. Cannon's motion to strike out section 2. If it be the sense of this committee that section 2 goes out, why spend time here for an hour or two trying to perfect something which the house probably is in a temper to strike out? I held that upon yesterday while chairman of the committee, whether right or not I do not know, but it struck me then that I was, and I still maintain that that is the right principle, and I disagree with my brother from Salt Lake, when he says that there ought to be a motion which would permit an amendment to the section which is sought to be stricken out. It would seem to me that if the principle were to prevail that the chair was wrong in this matter we would have an unlimited length of time taken up in undertaking to perfect something which may never be passed upon or approved by the committee.

I therefore, shall vote to sustain the chair's decision.

Mr. HART. Mr. Chairman, as I understand, the ruling of the chair is that the motion made by Mr. Varian is not upon the ground that there are already two amendments to the motion, but it is on the ground that a motion to strike out has been made and until that motion has been voted upon any amendment to the question would not be in order. Now, it is true that there are two amendments before the house and if the gentlemen are going to be captious about this matter, why of course, you would simply have to wait until one of those motions are passed upon, but it is a matter of very little question. If Mr. Varian waited until the amendment of Mr. Strevell had been voted upon, then there would have been simply one amendment before the house and his motion would be in order. Now, Mr. Varian, as I understand it, concedes that there being two amendments before the house, his motion would not be in order, if the objection was made on that ground. Of course, as I stated before, he could simply wait for a moment, until the motion by Mr. Strevell was voted upon. That would bring one less amendment before the house and then his motion would be in order. But, as I understand it, the chair puts his decision upon the ground that the motion to strike out having been made, that must be put first and the gentleman from Weber (Mr. Evans) sustains the chair, as I understand it, upon that ground. He takes the position, as I understand it, that a motion to strike out is not an independent motion, but in the nature of an amendment and in the face of the authorities that were read here yesterday, he takes the position that when there are amendments pending and a motion to strike out is made the motion to strike out should be put first. I venture to say that the gentlemen will find no authority anywhere for any such a position as that.

The CHAIRMAN. Let me say to you, Mr. Hart, for your information, the chair ruled on the question as it stood before the house, without making any particular statement as to all the details.

Mr. HART. (Reading.)

If it is proposed to amend by striking out paragraphs, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking out.

That is from Jefferson's manual, and other parliamentarians are of the same opinion. I do not think there are any authorities that will substantiate the position taken by the gentleman. Now, they go so far as to hold this, that where there are two amendments to a motion, a substitute for that whole proposition will then be in order. And more than that, that two amendments to the substitute are in order. According to the theory of the gentleman from Weber, that would be entirely out of order, for the reason that there would be five amendments before the house, but that is what is allowed in Congress every day. That is in accordance with their rules, and for the last thirty or forty years that has been the practice in Congress, to permit two amendments to the original motion, then to permit a substitute for the whole thing, and then permit two amendments to the substitute, and their order of voting upon the proposition would be simply this, they would vote first upon the two amendments to the original proposition, then they would vote upon the amendments to the substitute, after they had the original proposition perfected, and after they had the substitute perfected, then they would pass upon the question of whether they would strike out the original proposition as perfected and place in its stead the substitute as perfected. If the chair is going to be captious or members of the house, about permitting three amendments at once, when the gentleman can

simply avoid the situation by withholding his motion for a moment, and then placing his amendment before the house, after one of those amendments is disposed of, why of course, the matter can be done, and in that way, but if the chair insists that the motion to strike out shall be made first, it is a very different matter, and a very serious one, for this reason, that a person son might vote to strike out an imperfect proposition, whereas, if the proposition was perfected, he would not move to strike it out. It is reasonable. There is no other reasonable proposition that can be made on that subject. It is reasonable to perfect first a proposition before striking it out.

Mr. EVANS (Weber). May I ask the gentleman a question? You admit that the right so far as this question is concerned, that is that Mr. Varian's motion is not now in order, until Mr. Strevell's is disposed of?

Mr. HART. Well, yes.

Mr. EVANS (Weber). Why not sustain the chair then and when we reach the other bridge, cross it?

Mr. HART. Well, you discussed the proposition and the chair placed its decision upon that ground. I do not think the gentleman would make an objection, the only purpose of which would be to hinder business instead of to facilitate, which that objection would be if the only objection to it was that two amendments were already made, because the amendments were not connected. There is no connection between Mr. Strevell's amendment and the amendment offered by Mr. Varian, and the only purpose, it seems to me, in objecting to that would be to obstruct business rather than to facilitate it, because he could present it a moment later as soon as the question was voted down.

Mr. EVANS (Weber). You then oppose the chair, because he has given a wrong reason for a right decision, do you?

Mr. HART. Oh, I will sustain the chair upon the proposition of three amendments. I was not aware at the time that Mr. Peters' amendment was before the house.

Mr. VARIAN. Mr. Chairman, it is hardly fair I think for gentlemen to discuss this question upon the appeal as it was taken actually and when driven from that position by my friend from Cache County to fall back upon the quibble that there is another question in it that was not considered. Of course, I did not take an appeal upon the proposition now advanced by Mr. Evans, and as that seems to be insisted upon, I withdraw my appeal. I understood and so did the chair, and so did the gentleman when he first argued it, that the sole question for decision was as to whether a motion to strike out a part of a section should be put before a motion to strike out the whole section. I withdraw the appeal of course.

Mr. FARR. Mr. Chairman, I would like to say a few words on this subject. It does seem to me that every member of this Convention understands what they are about. It is before them and they know whether they want this section stricken out or not. I think the ruling of the chair is quite right. If a majority of the members of this house want this section stricken out, it ends all controversy, but if they vote no, then the members here can have it amended. They can amend that section as long as it is before them, but if it is stricken out, it ends it, as I understand it, consequently, I think the ruling of the chair is quite right to decide whether we want that section here at all or not. Then if we want it we can move to amend.

The amendment of Mr. Strevell was agreed to.

Mr. PETERS. Mr. Chairman, I trust the amendment that I offered will prevail. I think that the point that Mr. Varian refers to is covered in the word conciliation—

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order. I submit that when amendments commence to be put they ought all to be put until disposed of.

The CHAIRMAN. I understand this amendment is to another part of the section. It is not an amendment to the amendment.

Mr. VARIAN. I make the motion now to strike out all after the word employe, in line 7.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I trust that this will not be stricken out, or that this part Mr. Varian moves to retain shall not be stricken out by Mr. Peters' amendment, from this fact, that it is plainly known by experience that there is a great loss through strikes in our country, and if this shall prevail, it will require the Legislature at once to form a law appointing a board of arbitration. The duty of the board made known here in the part down to employes, whereby they will be under the necessity in case of strikes and labors—the employers and employes will be under the necessity, if I understand right, of arbitrating in this matter at once, that the difficulty might be adjusted, and that work may be commenced. It will save the employers a great amount of means, as also the employes, and I see that there would be no harm in retaining that part. I trust that Mr. Varian's amendment will prevail and that this will not be stricken out.

Mr. BOWDLE. Mr. Chairman, I hope that the section will not be stricken out. I do not like it just as it stands, but we ought here to recognize the laboring man's rights. The question of labor and capital is one of the most prominent questions before the people of the country to-day, and in this Convention the laboring man's rights ought to be respected and they ought to have some show, but I do not believe in legislating particularly upon that point. I believe in leaving some-

thing for the Legislature to do. It is true that we have in a great many cases been afraid that this Constitutional Convention contained all the brains of all the coming generations and that there would not be anything for the coming Legislatures to do or perform. Maybe we will come to the conclusion that there will some follow us that can handle these questions a little as they come up, and as a part of my argument, I want to simply state what my position upon this case is. I propose that the section should read that the Legislature shall provide by law for a board of arbitration which shall fairly represent the interests of both capital and labor, and shall have such power and perform such duties and receive such compensation as may be prescribed by law. That will provide for a board of arbitration that shall fairly represent both labor and capital, with such powers as may be given—discharge such duties as may be placed upon them. It seems to me it will meet the case better than the section or the amendment thereto.

Mr. STREVELL. I would like to ask for information this question; if you do not say that the board shall have such powers and perform such duties and receive such compensation—would the Legislature not have the power to grant those if you say nothing about it?

Mr. BOWDLE. The Legislature can exercise such powers as it may see fit.

Mr. BUTTON. Mr. Chairman, I am in favor of the section as it stands now. I did have a little confidence in the people of the Territory until I heard all this talk here about the Legislatures. They all told how the Legislature was going to be bought up. If they are going to be bought up when all these fellows that have been in before said so, I believe this section ought to stand just as it is, and I am going to vote for it.

The question being taken on the motion of Mr. Varian, the committee

divided and by a vote of 42 ayes to 32 noes, the motion was agreed to.

The question being taken on the motion of Mr. Peters, the committee divided, and by a vote of 31 ayes to 40 noes, the motion was rejected.

The CHAIRMAN. The question is on the motion of Mr. Cannon.

Mr. CANNON. Mr. Chairman, my reason for offering that is this, I am not opposed to a board of arbitration, but I cannot see any advantage that would be obtained now by the laboring man by having a provision in the Constitution to this effect. (Reads section.) For this reason it is very evident the provision does not go into effect until the Legislature acts. I am opposed to it for several reasons. One is that another board is provided for here and if the argument used is good that the people are opposed to the creation of offices and to attendant expense, they will certainly be to the appointment of this until it is needed. Another thing, that I believe the Constitution should be more than a collection of high sounding phrases. This does not provide for anything at this time, except that the Legislature may do that which it already has power to do. I believe that there is no other state in the Union where there has been less conflict between capital and labor than in Utah.

I believe that the people of Utah have had less labor difficulty than any of the surrounding states or many of our eastern states, and I believe that if we place in here a provision for a board and requiring that a board shall be appointed that it will indicate to the people from the east, capitalists, that there is existing here a conflict between capital and labor. I do not believe that there is such a conflict. I believe in the past when there has been no such board that the people have been able to arrange their affairs satisfactorily. I think that men who labor can go to their employers and can settle their

difficulties with them easier than if they called in a third party. I believe that the principle is not a particularly good one, and I, for one, favor striking out the entire section and leaving it to the Legislature, when it can be changed if found necessary. A board can be provided for at any time, but if we put it in here, it will require considerable trouble to change it, and there may not be a necessity for the board and it would have to be created if we put it in the Constitution, whether we needed it or not.

Mr. BOWDLE. Mr. Cannon, as I understood your remarks, at first, that this, if it was put in did, not compel the Legislature to constitute a board?

Mr. CANNON. Not until the Legislature meets—no board will be appointed until the Legislature meets.

Mr. BOWDLE. But when a Legislature would meet then they would have to constitute that board?

Mr. CANNON. Whether they want to or not; yes, sir.

Mr. SQUIRES. I would like to ask Mr. Cannon if he thinks it wise to wait until we get into the midst of a strike before we provide for a board of arbitration? If we leave the matter to the Legislature without making it mandatory, they may not appoint any board or provide for such a board until some great strike has overtaken the State, and then it will be too late. It will be locking the door after the horse is stolen.

Mr. CANNON. I would like to answer that question, if permitted; I suppose it was asked for the purpose of being answered. The provision here would not provide a board, if we had a strike a month from to-day; we would have no board until the Legislature meets. When the Legislature does meet, the Legislature has full power to provide for a board; and I am certainly in favor of keeping it to that.

Mr. SQUIRES. I think it should be mandatory.

Mr. HEYBOURNE. Mr. Chairman, I am not in favor of the gentleman's motion to strike out. The statement that the gentleman has just made with regard to the record of the people of this Territory is very praiseworthy indeed, but I apprehend, Mr. Speaker and gentlemen, that we are growing, our industries will increase, and that this sentiment prevails so extensively throughout our nation between capital and labor, it is very likely to be entertained here in the Territory and the coming State, therefore, Mr. Chairman, I approve of the section as reported by the committee. I do not think it will do any harm. It will have a tendency to make the necessary preparations in case anything should happen to us, of this character. Therefore, I shall oppose the gentleman's motion to strike out.

Mr. STREVELL. Mr. Chairman, I do not wish to talk too much on this question. But I would like to call attention to one thing, which was contained in the remarks of the gentleman from Salt Lake. As I understand it, he is a little afraid that if we put an article in the Constitution creating a board of labor arbitration that that is a notice to capitalists that we have had labor difficulties. I do not regard it in that way. I regard the remarks of the gentleman from Iron County as covering the ground; that there may come a time when we will want this very thing, and that the time to provide for it is now, when we can do it; and also in the remarks of the gentleman from Salt Lake, he seems to think that this would be detrimental to capitalists. I would like to ask that, if the majority of the people that have come into this Territory for the last twenty years have been capitalists? and if not, as I take it the answer must be, if this article would not do just as much in attracting the attention of laboring people to this community as it would the capitalists? I will say right now that the com-

mittee have tried to be very careful in preparing this article not to infringe upon any of the rights of capital, but we did believe that there were rights that the laboring people were entitled to inasmuch as they constitute seventy or eighty per cent. of the people. There are undoubtedly wrongs which the laboring people have had to put up with, and if in a measure we can alleviate some of those wrongs without going so far as to inflict an injury upon the capitalists, that is what we would like to do; and I will say this, this report of the committee is practically unanimous, and that we think we have come about as near accomplishing these ends as it is possible for us to do.

Mr. MALONEY. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The amendment would not be in order. We have taken up the amendments and perfected the question and now have come down to the motion to strike out.

Mr. MORITZ. Mr. Chairman, I hope the motion to strike out will not prevail. I can talk about experience in this matter. I have engaged a great deal of laboring men during my time, the last twenty-three years in Utah, and I found such a section as this, the way it is amended, is quite unnecessary. We, as manufacturers, had no cause whatsoever of getting justice in arbitration. It was always a one-sided affair if we had any difficulty with our laboring men. They have demanded certain hours and certain amount of wages per month, and if we did not like it, they say, "We will go out, we will quit." The consequence was we looked around for some other skilled labor to take these gentlemen's places, if they would insist upon it. We found we could not obtain that kind of labor which is desirable for our business, therefore, we were handicapped and the consequences have been we have had to give in every time. We had no arbitration. It was merely a matter of a

bulldozing arrangement, and therefore I hope the striking out will not prevail, and such a matter as this is asked for will be put in our Constitution.

Mr. KIMBALL (Weber). Mr. Chairman, I trust that this section will not be stricken out. The point was raised by the gentleman from Salt Lake that it would not be in favor of the capitalist. I claim that it will be as has just been argued by the gentleman—

Mr. CANNON. I arise to a question of personal privilege. I have not claimed that that was stated by Mr. Strevell, nor the present speaker. I have not claimed that this section would be opposed to capitalists.

Mr. KIMBALL (Weber). That is the inference that I have but I claim it is a protection to capitalists and also to labor, and as for the expense part, this is the way to avoid the expensive part. There is a proposition in my mind respecting this arbitration that if it could be carried out, will make it much less expensive than going into the courts and it can be adjusted in a very short time. That is, suppose the Legislature should arrange for an arbitration board of this character to appoint a board whose duty it shall be to adjust difficulties between employer and employe.

They will meet together and arbitrate upon this proposition immediately and settle this difficulty. If it be in favor of employers then it will also be in favor of employes, and settle this without bringing it into courts and making it very expensive, and keeping the poor men out of their employment and also keeping the doors closed of the manufactories.

Mr. VAN HORNE. Mr. Chairman, it seems to me that some provision ought to be left in the Constitution making it obligatory upon the Legislature to appoint a board of arbitration. The exact manner I care nothing about, but I do agree with the gentleman from

Salt Lake that capital would take warning from the fact that we have a board of labor arbitration here and consider that we had more labor troubles than we have. I think the effect of it will be just exactly the contrary. Labor and capital are by nature absolutely one in their interests. Where capital is well employed labor has good wages. Where capital is not productive, there are no men employed in work. The whole trouble is falling out between the two. That could be settled properly if coolly and calmly considered by a board of arbitration and if you gave notice to capitalists, "No, we are not liable to have labor difficulties in Utah, because we have in our Constitution a provision that when such difficulties arise, they shall be determined by a board of arbitration." They will say that labor and capital are acting as friends—are arbitrating their differences instead of fighting them out to the bitter end, and you will find that they will think under those circumstances that there is less danger of the disastrous strikes and long continued lock-outs that are had in many states than there would be if there was no board of arbitration.

Mr. SMITH. I would like to ask the chairman of the committee on labor and arbitration, if there is another constitution of any state that has an article like this, taking the whole article?

Mr. STREVELL. Yes, sir, several of them. The ones that come to my mind first are Wyoming and Idaho. Montana has an article, not exactly for the board of arbitration, but providing for rights of labor, so that I think a board of arbitration could be appointed under that article.

Mr. SMITH. Has the gentleman any information as to how it has worked? I was told in Wyoming not a great while ago that it was more trouble to them than otherwise.

Mr. STREVELL. I cannot answer that question. I do not know.

Mr. SMITH. It seems to me there is too much of the article, and if a proposition could be brought in here that should provide that the Legislature might provide for arbitration if in their judgment it was proper and right, I should be pleased to vote for it, but it strikes me that this is not a thing that is going to tie up capitalists alone, but labor, and it is going to create confusion that all of us will regret in time. I have observed that in the early days in this Territory under certain conditions the Legislature went to work and put the law making power in the governor's hands and then they tried to law-make it out of his hands, and whenever any effort is made in a constitution to accomplish a specific purpose, it is just as sure to return and plague the parties as that they do it, and as to this, it seems to me a simple provision that should enable the Legislature to enact some law in regard to this matter would be much more fruitful of good than the possibility of our arranging this thing in a form one day and wanting to change it the next. I am a laboring man myself, and I expect to labor, and it seems to me under the circumstances that a proposition of this kind we are hedging up the road, and if there is a possibility of cutting this down and shaping it in a form that it shall leave the Legislature to do something and not want to legislate here so much, I am in favor of that part of the proposition as a whole.

Mr. RALEIGH. Mr. Chairman, I want to say just a few words. Now, if gentlemen have studied up this labor and capital question, probably they will have discovered that the one is dependent on the other all the way through. It is just as important to the laborer that capital should be condensed or brought together, in order to establish great enterprises, in order that the laborer may have something to do. Well, the laborer when he strikes injures the capitalist and shuts out from him-

self a source of livelihood. Now, they should harmonize and if something can be done here that will set them to studying upon the question properly and harmonize and be united to a greater extent than they are at the present time, it will do some good, and I am in favor of an article being placed in the Constitution sufficient to enable or to require the Legislature to make a provision something like the present one that is before us, but not so extensive.

Now, I know very well and everybody knows that if capital was in use there would be labor sufficient for every man. The trouble is now and has been for some considerable length of time here, it is not in use in this Territory or this locality at least. Prices have become too high for labor. There is not circulating medium sufficient in the country to carry on the business of the country at the prices being so high. Now, if a laborer will perform his work for what it is worth, after it is performed in the construction of buildings, or anything else, the capitalist will invest, but if the laborer will not perform that labor for what it is worth, why then he withholds. Now, they should economize. They should see to each other's interest, the laborer should be diligent in sustaining the part of the person that employs him—the capitalist, and thereby the capitalist would be interested in the laborer, to furnish him labor, by the capital that he has and wishes to invest. Now, if something could be done, I should be very much pleased myself, in this direction, and it should be the study of the people, both the capitalist and the laborer, to study each other's interest and harmonize and not be eternally at war, as they have been in the other parts of the country. It is true, it has not been in Utah simply because this strike element is not here, to the same extent as it is elsewhere. It does not belong to this community, that is to

the community that came here first. There is none of that element in that portion of the community.

Mr. GOODWIN. Mr. Chairman, I dislike very much to interfere with the work of a faithful and careful committee, after they have prepared with a great deal of labor an article to be submitted to this Convention, but the situation is peculiar in this day. Within the last few years two causes have been at work, which have a tendency to cause differences between employers and employes. The first is the establishment and the unanimity of the work of labor unions, not always in the hands of broadminded men. The second is the steady fall in prices, which amount to fifty per cent in the last twenty years. Now, to cure that, this committee has proposed that a board shall be established that shall endeavor by mediation and conciliation to effect a settlement. Suppose the employer and employe both laugh at that arbitration, and do not arbitrate? They are simply authorized under this to try to effect a settlement. I shall not vote to strike out the section, but I shall be very glad to see it returned to the committee so that it can be amended in a way that they arbitrate always; if such a board is established, that it shall have authority to act. Of course, I am working for you and you and myself may quarrel, and three better men than either of us may decide—mediate and conciliate matters, and if we are not in the humor of being conciliated we will simply tell those gentlemen to go about their business. I do not see anything in this section that gives the proposed board power to act, and if you are going to have a remedy it has got to amount to something more than a poultice in a case of this kind. This is all this does, as I construe the language. I think there ought to be something in the Constitution directing tersely a Legislature to so legislate that when the difficulty comes between

labor and capital, there shall be some immediate court that can say to labor, stop here, or to capital, stop here.

It looks to me as this is constructed, that of all places in the world, I should dislike most to be one of those arbitrators. For instance, to go before a board and say to them, "You are wrong," and be told, "It is none of your business, suppose we are." We go to capital and say, "You are right, you can dispose of those men and get new ones," and capital will say, "If I do those who have been employed will run my men off of the ground." This is something that either needs a remedy or letting it alone. I know something about the business. I have served in nearly every capacity and I know that while it is the habit of capital very often to become arbitrary where, especially in this country, as machinery is more and more used, the real owners of capital are drawn further and further away from their employes. At the same time employes are not always considerate of the rights of the employers. Sometimes, when times are hard, when prices are falling, and what was a paying investment a few months before has ceased to be so, capital is in trouble and labor makes up its mind that it will not make any concession. I know a case of that kind. I do not believe that this board as provided could interfere with that. I shall vote to retain the section and then if some gentleman will move to refer it back or make it more specific, or if some gentleman will amend it so as to make it more specific or offer a substitute which will cover the case better, I shall vote for the amendment or the substitute. As the section stands, it is a recommendation simply. The only authoritative thing is that it compels the Legislature to appoint a board of arbitration. It does not instruct that Legislature or make it mandatory upon that Legislature to surround that board of arbitration with authority to deal with

the question, and unless it does why it will only be an irritant instead of the poultice that is intended.

Mr. MACKINTOSH. I would like to ask Judge Goodwin a question. Would there be any binding and legal effect upon the decision of any board of arbitration between employer and employe?

Mr. GOODWIN. Not unless the Legislature had the power to make it binding.

Mr. MACKINTOSH. Would they have the power—could you give them the power?

Mr. GOODWIN. Yes, sir.

Mr. MACKINTOSH. Could you compel a man to go to work, if the Legislature says so?

Mr. GOODWIN. You could not compel a man to go to work. The laws of this country have been trying to make men like Mr. Mackintosh work for the last fifty years, but they could not?

Mr. ROBERTS. Mr. Chairman, as I understand it, the proposition is now to strike out section 2. I shall vote for striking out that section, and if it were possible, I would like to vote for striking out all the sections, for the reason that I believe that subsequent sections will materially interfere with several rights guaranteed by the other parts of the Constitution. I suppose it is now in order to offer a substitute for the whole article?

The CHAIRMAN. No, sir.

Mr. ROBERTS. But when that time shall come that it is in order to do so, I shall offer the following as a substitute for the whole article:

The Legislature shall provide by law for a board of labor arbitration which shall fairly represent the interests of both capital and labor, and it shall be the duty of said board under such regulations as may be provided by law to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employe.

I believe, sir, that that is about as far as the Constitution ought to go in deal-

ing with this question. To my mind the greater part of this article—in fact the whole article, is purely legislative in its character, and the general provision requiring the Legislature to provide by law for a board of arbitration, and to authorize it under such regulations as may be fixed by law, to attempt mediation and conciliation, between employer and employes, is about as far as we can go. I wish to make this general explanation of my reasons for voting against this section 2, and the subsequent sections also.

Mr. SMITH. Mr. Chairman, I move to recommit the whole article to the committee on arbitration and labor with instructions to bring in an article covering about two sections that shall answer the purpose of this matter.

The motion was ruled out of order.

Mr. STREVELL. Mr. Chairman, I hope the motion will not be carried to recommit this to the committee for several reasons. If this matter is referred to them, I do not know what they would do, but improve this. This is the idea of the committee, we knew that it would be cut and slashed here, we went there sure of that, but we were a committee to report our ideas. We have done that. If the committee sees fit to change it, very well.

Mr. EVANS (Weber). Mr. Chairman, this matter which is now under consideration is one which I know many members upon the floor feel a great delicacy about expressing opinions upon. Indeed it is one of those matters which require our best thought, whether in the Constitutional Convention or whether in the Legislature, is a matter about which people will honestly differ. When we see all around us difficulties springing up between capital and labor, the natural impulses of us all is to try to devise some plan by which those difficulties might be averted and by which a different and a better condition of affairs might exist. But I fear, gentlemen of the committee, that there are

many things in this article which would prove detrimental to the very man whom we believe it would benefit, that is, the laboring man. I am a believer myself in the question of arbitration between capital and labor, but I know of no constitutional rule by which it can be done, except by a voluntary submission. I do not know of any rule by which a compulsory submission to arbitration between capital and labor can be accomplished. Indeed our best law writers lay it down that it cannot be done. Judge Cooley, in a very exhaustive opinion upon this question before the national bar association recently, gives it as his opinion that compulsory arbitration cannot be effected under the system of our government. It requires, of course, two parties to an arbitration and it requires that those parties should be within the jurisdiction of the board of arbitrators. It requires that there be something to be arbitrated by which each of the parties may be bound or must be bound. I believe that a system of arbitration can be devised which will conciliate capital and labor to some extent and I would favor it in one form or another. But, gentlemen, we have an article here, the whole of which is not under consideration now, but which in many respects might prove extremely dangerous. The chairman of the committee has called our attention to the fact that in two constitutions, that of Montana and that of Washington, this question has been dealt with. He is correct so far as this question is concerned, but the dealings of the particular states referred to have been so meager and it has been deemed to be so dangerous that but little has been said upon the question. Let me read to the committee just what was said in those two constitutions, to see how much further we are going in this respect than any other state. In Montana this section is found:

The legislative assembly may provide for a bureau of agriculture, labor, and

industry, to be located at the capital and be under the control of the commissioner appointed by the governor, subject to the confirmation of the senate. The commissioner shall hold his office for four years and until his successor is appointed and qualified. His compensation as provided by law.

That is all that is said in Montana.

Mr. STREVELL. Will the gentleman allow me to make just a statement. I think you misunderstood me. I said that Idaho and Wyoming, but there was an article in regard to labor in Wyoming which I thought a board might be appointed under—Idaho and Wyoming.

Mr. EVANS (Weber). Now, I will read from the constitution of Wyoming, which is very brief and which deals with this subject in a very meager manner.

The legislature may provide by law for the voluntary submission of differences to arbitrators for determination, and said arbitrators shall have such powers and duties as may be prescribed by law, but they shall not have power to render judgment to be obligatory upon parties unless they voluntarily submit their matters of difference and agree to abide by the judgment of said arbitrators.

That is all in Wyoming upon the subject. I do not want to be understood, gentlemen, that I am not in favor of arbitration. I am not in favor of boards of arbitration. I always have been all my lifetime, since I have been old enough to think about the question at all, but I am showing how the other conventions have dealt with this question and how careful they have been not to go into details. Now, in Idaho there is a provision in reference to it. (Reads.) Now, it will be observed also that Idaho has been careful in dealing with that question. There are some things in this article that probably ought not to be discussed now, but which, in my opinion, come squarely in conflict with the Constitution of the United States, which would impair the obligation of contracts and there are so many things in it which seem to me are crude and which

ought to be left to the Legislature, that I would be willing to vote here to have the committee rise and have it resubmitted.

Mr. FARR. Mr. Chairman, I would like to say a few words. I am aware that the Legislature as many have said, has the right to legislate for all these matters, but the question is will they do it? We have said in this that they shall do it. Now, when it goes abroad, they look to Utah, they want to know whether there is a section—when the laboring man goes to Utah or when they are here, they will want to know whether this Convention has made any provision to protect them. Now, I want to say right here, I am opposed to striking out this section in whole, but I am opposed to legislating so much as this article legislates, but when this article says the Legislature shall provide—the other states say, “may provide,” but we want to say that they shall provide. When we have said that, we have said all that is necessary. They will be compelled to appoint that board. I do not wish to leave that to them. I voted for Mr. Varian’s motion to strike out all after the word labor. I thought that covered the whole, but that seemed to have been voted down, and I would be in favor of saying no more about this business after you get to the word labor—to strike out the whole article, and I shall oppose the striking out of the section. I would rather have the article than not have anything said, but I believe when we get down to labor we have authorized the Legislature all that is necessary and we have compelled them; we do not say they may, but that they must do it. I think it protects capital and labor all that is necessary.

Mr. HAMMOND. Mr. Chairman, I have been present while this section has been under discussion, only for a few moments, and that is sufficient to convince me that the article should be stricken out entirely. I belong to one

party at least mentioned here—the capitalists and labor—and I have always been the laborer. I have never had any trouble with my friends, the capitalists, never. I made a contract with them, I have generally got my price that I agreed to work for. I have no desire to tie up the Legislature and compel them to organize or provide for a board of arbitration or a commission. No doubt he will have a salary, but if I am going into arbitration, I want to choose my man myself; if I am to drink the whisky, I want to get a man that is making whisky or beer, he will be my friend. This does not provide for that. I would be compelled to get a teetotaler, perhaps, to judge my case. Leave it to the courts to judge of these matters.

Mr. PARTRIDGE. Mr. Chairman, I do not wish to take up much of the time, but I am opposed to striking out this section. I wish to say this much, that the committee on labor and arbitration have labored to bring in an article, in their judgment, that would meet the requirements of the case, and I hope that if this committee, in their judgment, think that the article is too comprehensive, that they will cut it down. If they think that it is useless in its entirety, why abolish it, vote it out of existence, but do not send it back to the committee. I see a disposition here to eliminate a great many things, and it is stated by gentlemen that there is too much legislation. Now, I hold that there should be some legislation in this Constitution. If it is necessary that we have certain things specified, why it should be in the Constitution, leave the matter of details only with the Legislature. If it is necessary that we should have a board of arbitration in the interests of laboring men and capitalists, let us provide in the Constitution for a board of arbitration. Of course, the details can be left, but I do not see why everything should be left to the Legislature, on the ground that the Legislature will have power to

provide for it. We might say that we have no need of a Constitution. The Legislature can make laws. I do not so view it. The most important matters that pertain to the welfare of our country, I think, should be provided for in the Constitution, and the Legislature required to make provisions to meet those requirements, leaving the details with them. I was willing to have stricken out of that section all after the word labor. I voted for it, but inasmuch as it is left in, I do not believe that we ought to strike out the section, but I think that if there is any gentleman here, after the vote is taken and the striking out is defeated, that has a substitute that will fill the requirements, that is what we want; why, put it in and let us go on with it, and eliminate everything that is not wanted, and add what we do want. If we do not want any of it, strike it all out, but don't send it back to the committee.

Mr. THORESON. Mr. Chairman, I am in favor of striking out the entire section. And I have been more and more convinced that I was right in that, from the arguments that have been made here. In that section, the Legislature is merely recommended to adopt an outside policy—something that is new, as it were, in this western country, and it is in the constitution of many states not mentioned, in fact in the majority of cases. Now, in the first section here, the rights of labor shall have just protection through law to promote the industrial welfare of the State. I think that gives the Legislature a chance to investigate this matter and to ascertain which is the best mode to give labor its just rights and also to promote the industrial welfare. The chairman of the committee was asked if he had ascertained whether or not these boards of arbitration were successful. It appears that the committee on this subject has not investigated the results of the proposition that they

even recommend to the Legislature. They have not been successful as a general rule and by the time the Legislature meets we may ascertain some other method that would be preferable to this, would be recommended, and we give them ample authority here to adopt the best mode for the protection of labor, and also for the industrial pursuits. We are told that it is not policy to leave everything to the Legislature. I admit it, but it is policy to leave questions that have not been determined by the country at large or even by our neighboring states. I think it is good policy to leave that to the Legislature and I favor the striking out of this section.

Mr. RYAN. Mr. Chairman, I would not like to vote for the striking out of this section, if I did not think something else a little better should take its place, and while I appreciate the labors of the committee in preparing the article, I believe that the matter of arbitration exists already, and all the advantages that labor and capital might obtain by that they have now, when they wish to resort to it. I, myself, have often been a party to arbitration in mining affairs, and it works well, as a rule. And I believe the first section will cover that, that the Legislature would have the right and the power to appoint boards of arbitration, and with that view I have prepared a substitute that I wish to offer which is in possession of the house, which I think would direct the Legislature in certain ways, or to certain evils possibly that exist with the idea that they might right them and I have not enlarged it. I have simply mentioned the article in that substitute and for the information of the house I will read what it proposes:

Section 2. The Legislature shall provide first for the protection of men employed in mines and other dangerous occupations. Second, the cheap and speedy collection of wages for labor performed. Third, protect employees

from political and commercial control. Fourth, regulate and prohibit the importation of labor.

It also, I think in the substitute that I submitted, provides:

Regulate or prohibit blacklisting and the importation of labor.

Now, I think that those provisions or the direction to the Legislature points out particular evils that exist. First, the protection of men employed in mines. That is a very important matter, when we consider the number of accidents and the great number of men that are injured annually, and even since we have been in session the members of the Convention very generously donated in aid of a great disaster in our neighboring state, and I think just the direction to the Legislature pointing out in this Constitution the necessity for some legislation in that direction would probably be all that would be necessary. Then the cheap and speedy collection of wages for labor performed. Most of our Legislatures have passed lien laws for the collection of wages, some of them very good, some of them rather poor. The great difficulty or the inadequacy of the laws, as a rule, is the time for the collection. They generally extend it over six months or a year, so that the remedy is often not a remedy, but this simply directs the Legislature.

Then, the protection of employees from political and commercial control. That is a very serious matter also, that where a company of men or an individual employing a number of men—now, in a matter of politics, or in the selection of a candidate for office, or something of that kind, he wields a great power and he uses it—a great many use it, and do not hesitate to use it. Hence, you destroy the individual liberty of the man or you give it in the power of the man wielding the capital to use the men, that is to deprive them in a measure of their liberty.

And prevent the commercial control. That is another very important matter, and a matter that men universally complain of, and if any one has ever lived in a community where companies employing bodies of men have supplied them with all the necessities at general store and boarding houses and things of that kind, they will see and know how it paralyzes a whole community. If you go from that community to another community following a like line of business where the individual liberty of the worker is regarded and he can do as he pleases, you will see the great difference. The more prosperity, the greater content in a community. Men are better and live better and are better citizens under that condition than they are under the condition of restraint and control. That would be the reason for that provision.

Then, the prohibiting of the importation of labor. That is one of the most serious conditions I believe that confronts this whole country. That for years we have permitted, and men that have wielded great capital and great combinations in companies have for years gone to Europe and imported labor. They become dissatisfied with one class and they go after another until our whole country is filled up with labor, more than we want, more than we can use in any way. Now, when labor troubles occur here, or there is a want for the use of a great number of men in any localities, our great industrial capitalists, as you might say, can wield one battalion against another. If there is a little difficulty here, they go outside and they bring in a battalion or more and they put them against these men. They are thrown out of employment. They are poverty stricken and sometimes become charges on the community, and the whole civil or social system is disturbed. Now, should not the State take hold of these things and regulate them? And I believe that some single provision that would direct

the Legislature to the evil now would be a greater benefit than providing for some board of arbitration, because the boards of arbitration would not have any authority to enforce their edict, whatever that might be. And if they had, would it be the proper thing to force labor to work under guard or would it be the proper thing to force capital to employ labor if they did not want to? I do not see that the remedy proposed would do any good, and therefore, I shall vote to strike out the section, hoping to get something better.

The motion to strike out was rejected.

The committee then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee re-assembled at 2 o'clock p. m., with Mr. James in the chair.

The CHAIRMAN. Gentlemen, the business properly before the committee is the substitute of Mr. Bowdle.

The question being taken on the substitute, it was rejected.

The CHAIRMAN. The next is the substitute offered by Captain Ryan.

Mr. RYAN. Mr. Chairman, I would like to say a word further in support of that amendment or substitute. I presume, and I think it is the desire of all the delegates in this Convention, if they do anything on this matter at all, to do something that will be practical; and there are abuses all over this Territory, and all over the mining regions, you might say, especially on the Pacific coast, where I have been, that should not be tolerated in any community, and I endeavored to name some of those this morning, and it is for the curing of those that I submit this substitute. First, in the mining operations and in other employments, not necessary to mention, there is a great deal of danger to workmen, and I think the Legislature should pass the necessary

laws for their protection, and I think when we get that far, we have gone far enough. It has been my experience and it has extended over a good many years, both as a laborer and as an employer of labor, that personal supervision is not always good. It is hard to get a man who has the ability and the knowledge and the heart, as you might say, to inspect certain lines of labor or avocations that people follow, like mining. I do not think that the personal supervision coming from the inspection of mines and other dangerous occupations has ever resulted in any practical good, and I think if we had laws covering those matters, that it would work a greater benefit than the practice of personal inspection. I therefore have left that with the Legislature, that it was simply a guide calling the Legislature to a certain condition, and in their judgment they might enact such laws as they thought necessary. Then, you take the next clause, and that is in the prohibition of the control of employes in political and commercial relations. Those are important matters. It is very easy, under certain conditions, where men have control of a large body of men, to wield them politically. As I said this morning, they are favorable to a certain man's selection who is favorable to their interest. They are able to wield a great number of men in favor of their view. They destroy the individuality in favor of the citizen workman, and it is a blow in a measure at the political institutions under which we live. You undermine the respect and regard the common people have for laws and their government. And I think it is the duty, not only of this Convention, but of legislative bodies, to consider those matters, and as far as they can remedy them. Some practical legislation or some practical provisions that will eradicate those abuses. Then, the matter of controlling men commercially, that has got to be a great abuse. A man, for instance, has a mine, and he employs

a hundred men or two hundred men' and he runs a store and he runs a boarding house. Now, a man in order to get work must board with you or he must trade with your store, or he must do both. Now, that is largely practiced all over this country, and it is a great abuse. The only proper way to employ men is to fix their wages, pay them their wages and let them do as they please. For instance, you are a miner, you have a good mine, well, we are all after good mines. Nature lavishes on a man great wealth. They are not satisfied with that, but they must control the labor, they must control it commercially as well as politically, and these measures are for the protection of men. I say if we do anything, we should do it practically—for some practical end. Why should a man be entitled or allowed to pinch a little out of every man's dollar that he pays him? Years ago, we are told, or we read in history, that the changers of money, or the bankers, were in the habit, as they received a piece of money, to pinch a piece out of it—filing a piece out of it, or punching a hole through it, but laws were made to prohibit that, yet in this day and age we allow a man to hire a man and he pays him a dollar and he is allowed to pinch a certain amount out of it for some other purpose, and it is an abuse and I think we ought to remedy it.

Now, you come to the next matter that I aim to regulate. It is black-listing, and I think that should be left to the Legislature. That has come to be a great abuse. Even here in this last year, since the troubles throughout the country and particularly on the Pacific coast, men who left the employment of the Pacific railroad went up into adjoining states, out of California into Nevada, and other places and sought other employment. It is well established that the railroads pursued them into other fields.

You come to the matter of importa-

tion of labor. Now, people, many of them, say, "What does that amount to? You cannot prohibit the importation of labor." I think we can and I think we should. I think it is a matter of protection to the State and to society that we should have some measures prohibiting the importation of labor. I attempted to show this morning, when I spoke a few minutes on this question, that the importation of labor was a great abuse. That it had been followed in this country for a great many years in corporations employing numbers of men. They first become dissatisfied with one class of labor and they have gone after another to supplant it, to gain temporary advantages and by that means our country is filled up with labor. Now, all they have to do is to wield labor from one state to another and they are doing it. That very question itself I think, or that very matter of the importation of labor, has been one of the greatest abuses and something that this people have suffered more from than from any other cause whatever, I believe. Why, if you go back to the foundation of the government, the very idea of controlling or owning labor first induced the importation of slaves on this continent, with all its attendant consequences. There is no question about that and that has been going on ever since. Why, there was nothing less but the idea of owning or controlling labor that imported that similar race upon the Pacific coast, a few years ago. Would not we all be glad to get rid of it? And we permit it to go on. Now, we have more labor than we want, and as I said this morning, the industrial captains are continually wielding the force of labor from one state to another. They have some trouble here and they go into another state. Lately they have been going into the southern states and taking the negroes that were first imported under this pernicious system ages ago, and wield them against the labor of other

states. You might say that the sins of the father are being visited on the generations afterward. I do not see why it is not in the province of this Constitutional Convention to direct in some way the future legislation of this State looking to the prohibition of that practice. And it was in that view and for these considerations that I submitted that substitute. And I believe that it would be of more practical use in the settlement and the control of the labor question than anything else that we have before the Convention.

The substitute offered by Mr. Ryan was rejected.

Mr. STREVELL. Mr. Chairman, I move you, sir, to strike out all after the word labor, in line 4, and to add after the word labor "the board shall perform duties and receive compensation as prescribed by law."

The amendment was agreed to.

Mr. Evans of Weber offered the following substitute for the article:

The Legislature shall provide by law for a board of labor arbitration which shall fairly represent the interests of both capital and labor, and it shall be the duty of said board, under such regulations as may be provided by law, to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employes.

Section 2. The exchange of blacklists between corporations shall be prohibited.

Mr. EVANS (Weber). Mr. Chairman, I move the adoption of that substitute for the entire article on labor. And I want to say, in support of it, only a few words. I realize that we are taking up a great deal of time in the discussion. It will be observed that this substitute differs from those offered in the fact that it seeks to protect by arbitration both labor and capital. One is as much entitled to protection under the law as the other and should receive as fair consideration. There is no prosperity without labor. There can be no labor without capital. These two elements ought to be in some manner by

some mediation harmonized, so that less friction would occur between them than has occurred in the recent past. It is a very difficult problem for this Convention to deal with. I do not believe that we can deal with it here intelligently. The whole question, Mr. Chairman, is a new one, and when put into practical operation under a constitutional provision it may prove to be a failure. If so, the Legislature could readily remedy the defect. If labor is oppressed, if it does not have a fair share of that which it produces, I believe so far as we can go in a legislative capacity, that we ought to remedy that defect and ought to extend the labor, which is the creation of all capital, as much protection as we consistently can.

The balance of this article, it will be seen, provides for many things which, in its very nature, might be extremely dangerous to labor as well as capital. I believe that it would create a friction between the two elements—a greater friction than we have ever had in the past, but if we will leave this question to the Legislature in the manner in which I suggest, the Legislature will wisely deal with it. If they find that it is not wisely dealt with, they can readily repeal the act, and substitute something more beneficial in its place. But if we fix in the organic law of the new State, these provisions which are engrafted into the report of the committee, and which I desire to say were honestly engrafted there, we may find many barriers in the future that would hamper labor and that would frighten capital, and create a friction between the two which ought not to exist. As I stated before, I am in favor of a board of arbitration to conciliate these matters, just as far as we can constitutionally go, and I believe that this will effect the object. Now, so far as the question of blacklisting is concerned, I am opposed to that which is reported by the committee, because I believe it is

not right. That simply provides that no corporation or association shall keep a blacklist. I do not think we can say that. I think that any corporation can keep a list of its discharged men or of the reasons why they were discharged, but the thing to be reached, and the only thing that is found in constitutions which I have examined (and I believe I have examined all of them) is to prevent these corporations from exchanging with each other the lists of discharged men. That thing, as has been wisely stated by the gentleman from Juab, has caused a great deal of trouble, and in many cases, actual crimes.

During the recent great strike, sympathetic as it was, having its source from Pullman's at Chicago, we find that those people who were engaged in that strike, and with whom I did not sympathize, because I do not believe in sympathetic strikes—it is something that cannot be reached by legislation or arbitration—but that strike caused the discharge of a great many men. Corporations in various sections of the country exchanged their lists and whenever a man sought employment in a different section of the country, he was immediately spotted as having been in a strike upon some other road. The result was that he was discharged again. The result was at last that these men who were discharged and who were honestly mistaken in their forlorn fight sought employment in other localities and actually changed their names—went under fictitious names for the purpose of securing employment and thereby to secure bread for themselves and their families. I am opposed to this exchanging by corporations of that blacklist. It is a thing which is a proper subject of legislation. I think it would be proper in the Constitution, but to adopt the committee's report, I think it would not be right, because any company has a right to keep a list of its discharged men. It is

perfectly proper that it should. I think that we cannot constitutionally prevent them from doing it. I think if this substitute is adopted, no harm would be done and large benefit would be derived.

Mr. CORAY. I would like to ask if you think the law would prevent them from keeping that blacklist?

Mr. EVANS (Weber). The committee has reported section 7, that prohibits the keeping of a blacklist at all.

Mr. IVINS. Do you suppose any law can be passed and be enforced that would prevent one company from giving a list of discharged employes to another, if it wanted to?

Mr. EVANS (Weber). I do. I think whenever any individual or corporation undertakes to prevent the laboring man from securing labor in any other section of the country than that in which they themselves are directly interested that it is a conspiracy under the law as it stands to-day and ought to be punishable. A man has a perfect right to discharge his employes—a perfect right, and no gentleman upon this floor will question that right, but he has got no right to pursue each man into other localities when he is seeking labor from others and thereby form a conspiracy with others by which that laborer may be deprived of his labor for the support of himself and his family. It would be a conspiracy, I say, under the law as it exists to-day and it ought to be punishable.

Mr. THURMAN. Suppose these companies should adopt a system by which they would ask each other for information respecting men that had been discharged from their employment within a given time. Is there any law that would be made that could prohibit that information from being given and after it is given, is there any law that would compel the company that asks for the information to employ any man if they did not want to?

Mr. EVANS (Weber). We propose here to make a law that will do it.

Mr. THURMAN. We can never do it.

Mr. EVANS (Weber). We can do it, and as I stated before, it is for the purpose of meeting the kind of cases which my colleague gives. When one corporation asks another corporation for a list of its discharged employes, it asks them for that list for the express purpose of depriving those men of labor in that company, not because they have committed any crime, but simply because they had ceased to work because of a mistaken idea that their employer has not treated them right. If it were a crime to quit work, then it might be different. But when men simply quit work because of a mistaken idea, why should they be deprived of work in other localities? In other words, suppose a laboring man sees his mistake and suppose he desires to repent, suppose he desires to go to work, and never engage in another strike, should there be a system of laws by which corporations could simply grind that man down and tread upon him with the iron heel of capital and keep him there, simply because of one mistake which he has made in the past? The idea is to prevent that, to show as far as we can that we are willing to aid labor to secure work when it is legitimately seeking work, but when it undertakes to violate the law itself, the same as a corporation, then it must come under the ban of the law the same as a corporation.

Mr. MALONEY. Will you consent that your amendments take the place of sections 2 and 7?

Mr. EVANS (Weber). My amendment is offered as a substitute for the entire article.

Mr. MALONEY. Your amendment does not cover the entire ground. I would be glad to support it if it took the place of sections 1 and 7.

Mr. SQUIRES. Mr. Chairman, I arise to a point of order. I understand now

we have under consideration section 2 of this article and under that consideration the gentleman offers a substitute for the entire article. That, I apprehend, is distinctly not in order.

The point of order was sustained.

Mr. STREVELL. Mr. Chairman, I hope this substitute offered by the gentleman from Weber will not pass for this reason: the report of the committee is made up of several sections, and I think with one exception we have constitutional authority for every section we have offered, and I think we should at least be permitted to pass upon these questions separately. There are several things that the substitute does not take into consideration that I would like to have the expression of this committee upon.

The substitute of Mr. Evans was rejected.

Section 3 was read.

Mr. STREVELL. Mr. Chairman, I have an amendment that I wish to offer for section 3 right now. I would like to state why I am offering so many amendments to this section. That is, since the committee have made their report, we have consulted some of the highest authorities in this country, and amendments which I am offering here as my own have been suggested by this gentleman, but with instructions that in no case I am to use his name in introducing them. Several of them have been handed to other members of the committee. This is one of the amendments:

Amend section 3 by adding before the word "not," in line 1, "in the absence of any specific contract."

Mr. THURMAN. Mr. Chairman, I offer an amendment to the amendment by moving to strike out all that the gentleman proposes to prefix to the words "not more than," making it read, "Eight hours' actual work shall constitute a lawful day's work in all underground mines," etc. I think that if a man does twelve hours' work that

ought to be considered a lawful day's work, but this would prohibit that.

Mr. STOVER. Mr. Chairman, I move an amendment to section 3, after the word "mines," in line 3, insert: "And in all smelting works for the reduction of lead ores." For the reason that one of the most important—

Mr. CHAIRMAN. Captain Stover, please give the chair an opportunity to be heard. The chair has made up its mind to make a ruling of this kind—I don't know that the Convention will sustain me, but whether they will or not, it is one so far as expediency is concerned, should be sustained by this Convention, and that is when an amendment is made, and an amendment is proposed to the amendment, that should be disposed of before any other matter comes before this Convention.

Mr. THURMAN. That is right.

The CHAIRMAN. The trouble about these amendments to amendments and substitutes, etc., is they are simply confusing to this Convention and lead men's attention away from the subject matter that is before the Convention, and when a vote is taken, half the time they have to be re-read to know what we are voting upon. The question now comes properly upon the amendment to the amendment by Mr. Thurman.

Mr. THURMAN. Mr. Chairman, I will withdraw my amendment, if my second does not object. I am opposed to the whole article, section by section, and I am opposed to it in toto. I shall move to strike it out.

The CHAIRMAN. Captain Stover's would be in order now, if it is an amendment to the amendment offered by Mr. Strevell.

Mr. STOVER. No, sir; it is an amendment to the section.

The CHAIRMAN. Then it is not in order.

Mr. IVINS. Mr. Chairman, I wish to move as an amendment to the motion of Mr. Strevell, by which he adds a few

words to section 3, that section 3 be stricken out.

Mr. THURMAN. Second the motion.

Mr. IVINS. Inasmuch as I have a second, I wish simply to say that the sentiment of the house seems to be that these sections be passed upon singly and that it would not be in order to strike out the whole article until each section has been passed upon. Therefore, I move to strike out section 3, and hope that all other sections will be stricken out and this whole matter will be left with the Legislature, where I think it properly belongs. It manifestly will be within their power and jurisdiction to provide for any differences that may arise between labor and capital, and I believe that that will do it better than we can possibly do here in the limited time at our disposal.

Mr. MACKINTOSH. Mr. Chairman, can I offer a substitute for part of section 3—am I in order now?

Mr. KEARNS. Mr. Chairman, I hope this motion will not prevail.

Mr. SQUIRES. Mr. Chairman, I understood Mr. Ivins to amend the motion by striking out the section.

The CHAIRMAN. That is what I understood.

Mr. SQUIRES. I submit that that is not proper amendment to the amendment already before the house.

The CHAIRMAN. It is hardly germane, the chair will admit that.

Mr. IVINS. Mr. Chairman, the rule very distinctly says that an amendment may be offered by adding to or taking from or striking out.

Mr. SQUIRES. But that is not an amendment to this amendment.

Mr. MACKINTOSH. Mr. Chairman, I think mine should come in under that.

The CHAIRMAN. Mr. Mackintosh, what is your proposition?

Mr. MACKINTOSH. I sent it up to the clerk.

Mr. HART. Question on the motion to strike out.

Mr. PRESTON. Vote them all down.

The CHAIRMAN. Gentlemen, we will take a vote on Mr. Strevell's amendment. All in favor make it known by saying aye; contrary, no.

The noes have it.

Mr. CANNON. Mr. Chairman, I would like to hear it read.

Mr. VAN HORNE. Division called for.

The CHAIRMAN. All in favor of Mr. Strevell's amendment, make it manifest by rising to their feet.

Mr. CANNON. I want to know what we are voting on.

The secretary read Mr. Strevell's proposed amendment.

Mr. BUTTON. Is this Mr. Strevell's amendment? I thought it was Mr. Ivins' amendment.

The CHAIRMAN. Thirty-eight ayes. Those opposed will rise to their feet.

Thirty three noes. The amendment is carried.

Mr. IVINS. Mr. Chairman, I now move that this section be stricken out.

Mr. STOVER. Mr. Chairman, I call for the question on my amendment.

Mr. SQUIRES. Mr. Chairman, what became of the amendment offered by Captain Stover?

The CHAIRMAN. The gentleman will please take his seat. Captain Stover has offered no amendment.

Mr. SQUIRES. Captian Stover of Tooele offered an amendment.

Mr. CHAIRMAN. The chair has heard no amendment from Captain Stover. He offered a substitute awhile ago, while it was out of order, and the chair refused to entertain it. The gentleman will please take his seat.

Mr. STOVER. Excuse me. I offered no substitute. It was an amendment.

Mr. SQUIRES. Is that the decision of the chair on this question?

The CHAIRMAN. It is the decision of the chair.

Mr. SQUIRES. Then I appeal from the decision of the chair.

The CHAIRMAN. The decision of the chair is appealed from. All in favor—

Mr. SQUIRES. Mr. Chairman, before you put that question—

Mr. HART. I would like to ask Captain Stover if he did not make that motion?

Mr. SQUIRES. He offered it and read it at his place.

Mr. STOVER. I read it plain, after the word "mines," in line 3, insert, "and in all—

The CHAIRMAN. The gentlemen will please come to order. This proposition was brought before the attention of the chair and the chair ruled it out of order and it was not read, and Mr. Squires will please take his seat.

Mr. SNOW. Mr. Chairman, I move that the sergeant at arms be instructed to have Mr. Squires taken—

Mr. EVANS (Weber). Mr. Chairman, in support of the chair's decision, I want to say that there ought not to be any trouble about this matter—

Mr. SQUIRES. Well, we do not want a delegate choked off on this floor, Mr. Evans, that's what's the matter.

The CHAIRMAN. Will Mr. Squires please take his seat? He is out of order.

Mr. SQUIRES. I am not half so much out of order as is the chairman at this minute.

Mr. EVANS (Weber). I move that the chair rebuke Mr. Squires for his words of castigation of the chair at this time and that he be called to the bar of this committee for that purpose.

Mr. THURMAN. I second the motion.

Mr. HART. Mr. Chairman, I arise to a point of order. The motion is out of order in committee of the whole. This committee can do nothing but rise and report the circumstance to the Convention if there is any castigation or anything of that kind.

Mr. EVANS (Weber). Now, Mr. Chairman, I want to say in support of the chair's ruling that Captain Stover did offer an amendment, which, at the time it was offered, was out of order and the chair so ruled. The amendment of the

captain was not offered again at the proper time. If it had been, then it would have been proper to have considered it, and for that reason I want the decision of the chair sustained. There is no use of getting excited about this matter at all, and neither is there any use of using such words as those used by the gentleman from Salt Lake.

Mr. SQUIRES. Mr. Chairman, when the motion of Captain Stover was made there was but one amendment before the house: that was the amendment offered by the chairman of the committee, Mr. Strevell. There was no other amendment before this house—that amendment was certainly in order, strictly in order. That is the position I take and that is the reason I appeal from the decision of the chair.

Mr. VAN HORNE. Mr. Chairman, at the time Captain Stover offered his amendment, he offered it as an amendment to Mr. Strevell's amendment of the section. It introduced an entirely new subject matter into the section, and was not germane to the motion of Mr. Strevell, and the chair ruled positively that at that time and on that particular motion of Mr. Strevell's it was out of order.

Mr. BOWDLE. Mr. Chairman, I think the chair is entirely correct upon this proposition. He made a ruling upon Captain Stover's amendment. There was no appeal taken from that ruling. If he was wrong, then was the time to have taken the appeal.

Mr. HART. Mr. Chairman, I remember it now, just as the gentleman explained it. I thought at the time Mr. Squires made his appeal, that the amendment had been admitted. I remember now that the chair ruled it out, and the question is now, not whether the chair made a mistake then. That is past. The question is whether there is any amendment before the house.

The question being taken on the appeal from the decision of the chair, the decision was sustained.

Mr. MACKINTOSH. Now, Mr. Chairman, I have got a little resolution, "That four dollars shall be the per diem of underground miners, and silver shall have a fixed value of \$1.25 per ounce." [Laughter.]

Mr. GOODWIN. Mr. Chairman, I ask unanimous consent that Mr. Mackintosh make the opening and closing speech on that amendment.

Mr. IVINS. Mr. Chairman, I renew my motion to strike out the section.

Mr. ANDERSON. Mr. Chairman, I hope this motion will not prevail. I am in favor of the section as it stands now amended. I think that it will be a benefit to those working underground. I think that a man will do as much work in eight hours as he will in ten, because he will be in a better condition to work and according to this amendment, why the employer is allowed to make a specific contract and I think that this will be a good thing.

The question being taken on the motion of Mr. Ivins the committee divided, and by a vote of 41 ayes to 40 noes the motion was agreed to.

Section 4 was read.

Mr. THURMAN. Mr. Chairman, I move to strike out section 4. I wish to say that that is legislation pure and simple. We have got such legislation to-day. We always will have it. There is no question about it, and this only leaves it to the Legislature to do it. There is no way of mandamussing the Legislature and compelling it to do a thing, and if gentlemen will only bear in mind that this is the last day you are going to get any pay for your work done here, you will get down to Constitution making instead of legislating on these subjects.

Mr. STREVELL. Mr. Chairman, I would simply like to say in behalf of the committee that we took this from the Idaho constitution and there were several members of the committee who thought it was worth while to insert it in the article.

The motion of Mr. Thurman was agreed to.

Section 5 was read.

Mr. SMITH. Mr. Chairman, I move to strike out section 5.

Mr. CANNON. Mr. Chairman, I move to amend the section by inserting the word "of" after the word "or," in the second line.

The amendment of Mr. Cannon was rejected.

Mr. EVANS (Weber). Mr. Chairman, I want to say in support of the motion to strike out section 5 that it provides that the Legislature shall prohibit first, the employment of women or children under the age of fourteen years. Now, that is proper enough in a legislative enactment, but no abuses as I understand it have ever occurred in Utah with respect to matters of that kind. If it ever does occur in the future the Legislature will amply provide for it, and why put it in the Constitution? The next is a provision against discrimination in wages on account of sex. I do not believe that there ought to be any particular discrimination where the work is exactly the same between the sexes, but would not that prevent the paying for instance our stenographer of this Convention, if he were employed by some private individual and who is (without desiring to compliment him) a prince among reporters and whose skill in that direction challenges the admiration of every one, from receiving any more wages than a lady who is doing like work, but who is not nearly so efficient?

Mr. CANNON. I would like to ask the gentleman a question. Does the clause "discrimination in wages on account of sex" prohibit payment of a different amount on account of ability?

Mr. EVANS (Weber). It probably would not—putting it as broadly as that, but what are we going to with this question: Is the Legislature or is the Constitution going to prohibit an individual from employing men and

women in proper avocations and then say that their wages shall be exactly the same for the same kind of work? Is it not a matter of individual contract between people who employ men and women? If any abuse arises out of that, it could be arranged for by the Legislature. I know no complaint now upon this particular question.

The third is contracting of convict labor. I know of no contracts which have ever yet been made in this Territory by which convict labor has been contracted out to do any particular work. If any other gentleman does, he has heard something that I have not. So, why the necessity of putting that in? Why not leave that to the Legislature? I do not believe that convict labor ought to be contracted by the State authorities outside of the prison walls, but no abuses have yet arisen and why cumber up this Constitution?

Then, the fourth, the labor of convicts outside of prison grounds, etc. The policy of that is all right, but I have known nothing yet in this Territory which should call forth a constitutional provision of that kind. Usually the constitutions are made for the purpose of prohibiting something which experience has shown to have been an evil, and if experience has not shown that these things which are prohibited here have grown into an evil, why place it in our organic law? It is a perfectly proper matter for the Legislature to deal with, and let us leave it to the Legislature.

Mr. CRANE. May I ask the gentleman a question? By the insertion of this section into the Constitution, would not it be a guaranty hereafter as the density of population became very great in Utah that convict labor should not be farmed out, as it is in Texas and some of the southern states?

Mr. EVANS (Weber). I say, Mr. Crane, that I believe in the policy of it, but I do not believe in encumbering the

Constitution with it. It is not self-executory anyway in the Constitution. It simply says the Legislature shall do these things. Now, the Legislature has the plenary power to do it. Why not let it do it? That is the only point I make and I do not desire to say anything against the policy of a legislative enactment upon these subjects.

Mr. CRANE. Mr. Chairman, if it is made mandatory for the Legislature to do this, I do not see where it encumbers the Constitution at all. It is just merely two or three lines of insertion in the Constitution, and if it is a guaranty that the working man will be protected from convict labor by the State, it seems to me a good provision.

Mr. EVANS (Weber). It does say that the Legislature shall prohibit, but suppose that the Legislature failed to pass any laws inhibiting those things? The constitutional provision would be ineffectual. The Legislature must do it anyway. We have no power here to say that the Legislature shall do a thing and compel it to do it. The most that can be said in favor of it, is that it might be a reminder to the Legislature, but there is not a single item in that section but what the Legislature would wisely provide for. Any sensible, right thinking man would make such a provision if he were in the Legislature if any abuses should be found to exist by reason of a failure of such laws.

Mr. CRANE. Do I understand the gentleman from Weber County to say that when in the Constitution it says the Legislature shall prohibit, that it is left to the Legislature to do it or not as suits themselves?

Mr. EVANS (Weber). I do. I say that suppose the Legislature did not do it, how are you going to compel it to do it? It is a body sovereign in itself. I would say that the courts could not compel it to do it if it failed to act. The constitutional provision would simply be ineffectual.

Mr. EICHNOR. I would like to ask

Mr. Evans a question. Every member of the Legislature takes an oath to support the Constitution of the State of Utah, does he not?

Mr. EVANS (Weber). He does.

Mr. EICHNOR. He would be very naturally inclined to follow it out, would he not?

Mr. EVANS (Weber). Suppose he takes an oath to support the Constitution? That is not taking an oath that he will legislate in the Legislature of the State; but I will ask my brother Echnor a question, as a lawyer, if the courts could compel the Legislature to legislate upon these questions?

Mr. EICHNOR. Under no circumstances.

Mr. BOWDLE. Mr. Chairman, I am in favor of striking out the first two of these sections, but the two relating to the convict labor question, I am not in favor of striking out. I understand that we have declared in this Constitution that it shall be mandatory. I think that has already been passed. And it shall be mandatory upon the Legislature to pass a law that there should be no contract of convict labor or that the labor of convicts outside of the prison grounds, except on public works. Perhaps some of you remember two or three years ago, or a little longer than that, the trouble they were having, I think in Tennessee, where they were farming out the convict labor. They had no provision like this in their constitution. The legislature saw fit to go on to the disgrace of the state and to the disgrace of the laborers in the state—

Mr. GOODWIN. May I remind the gentleman that he is treading on dangerous ground when he goes to Tennessee, with Mr. Maloney on the floor?

Mr. BOWDLE. I had Mr. Maloney in mind when I made the assertion, but I do not think Mr. Maloney would defend that position for a minute in this Convention. And it is simply to provide against that. We have never had

that trouble here. In fact, I do not know whether the Legislature could have passed a law here. It could not certainly with reference to the United States prisoners on that subject, and I am in favor of something like this, probably with a little amendment to that.

Mr. MALONEY. Mr. Chairman, what Mr. Bowdle says as to the competition of convict labor is true. It has been a source of trouble for a number of years. Convict labor was in competition with honest labor. It was the same way in Arkansas and in Texas. I agree with Mr. Bowdle, that sections 1 and 2 ought to be stricken out, but that sections 3 and 4 ought to be in the Constitution. If we keep it in the Constitution then the Legislature cannot farm out convict labor. It is true, as Mr. Evans says, we have never had that trouble here, but when statehood is had the probabilities are the convicts will be worked, and if we kept sections 3 and 4 in, we will never get into trouble that Tennessee, Texas, Arkansas, and a number of the southern states have had.

Mr. CRANE. Mr. Chairman, I agree certainly with Mr. Maloney and Mr. Bowdle in this matter. It seems to me a very good thing for insertion in the Constitution. While I do not doubt the position and the ground taken by the gentleman from Weber County, it seems to me a very singular provision of law, if it is law, and I have no doubt it is if the gentleman says so. When we enact in the Constitution that the Legislature shall not prohibit or shall not do something, that the Legislature is compelled to obey the provisions of this Constitution, but when we say the Legislature shall prohibit, that that is nugatory. Now, as I understand it, Mr. Chairman, when a member of the Legislature is elected and before he—

Mr. EVANS (Weber). I want to suggest one thing. He says the Legislature shall prohibit.

Mr. CRANE. The Legislature shall

prohibit. If I understand the gentleman from Weber right—and I presume he is quoting the law, although it seems to me a very peculiar law that makes fish of one and fowl of another, if we say in our Constitution the Legislature shall prohibit, it seems to me that that is mandatory, that is compulsory, because when a member of the Legislature is elected to that office he takes the oath of office to obey the Constitution, and it seems to me that this could be just as prohibitory, just as mandatory, as if to say it shall not. This directly says the Legislature shall prohibit the labor of convicts outside of prison grounds, or the contracting of convict labor in competition with the laborer who is not in prison, and it seems to be a very good provision and I trust it will be inserted in the Constitution.

Mr. SMITH. Mr. Chairman, I certainly do not agree with the gentlemen on this proposition. I have never been able to satisfy myself that there was any reason on earth that working men should be taxed to support a body of men in idleness in the penitentiary and I have not been able to understand the purpose and design of the several sections of the country which have risen up in opposition to men being employed instead of being fed in idleness. So far as I am concerned in this matter, it looks to me as if the most prudent thing to do is to leave the matter entirely to the Legislature to act upon as they may deem proper, because the best position a man can be placed in is that he be kept busy at something. While it is possible that in the future, it is not likely the State will contract this labor, yet it seems to me that conditions might arise in the experience and development of the State that it should not be properly done, and therefore I am opposed to the section.

Mr. MALONEY. I wish to state that where the convicts in the penitentiary are compelled to labor they are self-supporting, that the convicts of Texas and

other states earn something like fifty thousand dollars a year. That institution is entirely self-supporting.

Mr. SMITH. I understand it to be.

Mr. MALONEY. That is exactly what we want. We want those convicts to be self-supporting and that the honest men who are working by day's work shall not be compelled to support them and at the same time we do not want convict labor put into the market in competition with honest labor. That was the trouble in those states.

Mr. CRANE. I would to ask if the gentleman is in favor in case necessity should arise or in case it should be done, that they should start a shoe factory in the penitentiary here where they probably have seventy-five or a hundred or a hundred and fifty convicts? I would like to ask the gentleman if he believes it right that those convicts, making shoes in the penitentiary, should have a right to compete with the men who are paying taxes to support this penitentiary in the making of boots and shoes in the city here?

Mr. SMITH. Why should not they be compelled to work and support themselves under the conditions of the law? I see no reason why these men should not be required to do it and not be put in there as idlers.

Mr. EICHNOR. I will answer the question, because they are criminals, because they are outlaws. Their labor should not come in competition with honest men, because they are criminals. In a certain sense, they are outlawed from society, that is the reason, and that is the reason when the great state of New York embodied that principle in its constitution of 1894, and that is the reason that every state that has been forming a constitution within the last several years sticks that principle in some article or other. Now, my friend, Mr. Evans, from Weber County, says we have no such thing in this Territory. I grant it. We never had slavery here, yet we have a provision

in the bill of rights prohibiting slavery. We never heard that the people of Utah were going to secede from the rest of the Union. Section 3 of the bill of rights says that Utah is an inseparable part of the Federal Union, and a number of other provisions of that kind. It is good common sense.

Mr. THURMAN. That is on account of the war of 1858.

Mr. EICHNOR. It is good common sense. It is good law, and it reaches the very heart's core of society. It is the line of demarkation between the criminal class and the law-abiding class.

Mr. VAN HORNE. Mr. Chairman, I move, as a substitute for section 5, the following:

The Legislature shall not authorize the contracting of convict labor or the labor of convicts outside of prison grounds, except on public works.

I have heard a question raised about one kind being not covered, and that is where it was outside of the prison ground. I take it that there is only two points to be considered in the question of convict labor. The first one is whether the contract shall be let—hiring out the labor of prisoners, and the second is whether they shall be worked outside of the prison ground. I take it that the first provision would prevent their being worked on anything but public works outside of the grounds, which were under the control of the State itself, because if those public works outside of the prison grounds were not State buildings, they would have to contract the prison labor, in order to have them work out there on this public work. It would have to be contracted public work, and they would have to turn over the prisoners to the contractors at some agreed price, which would be covered by the first part of the substitute, which is that they shall not contract convict labor. If that be true, the whole thing is covered in a short section and I think

that there should be some provision of that sort. I do not believe that it is right for any state to leave to its legislature the power to put in competition with the honest men of families the man who is a criminal and is working for his water and bread for the state and put the wares manufactured by such men as that into competition with the wares of men who have to support themselves and their families.

Mr. EVANS (Weber). Mr. Chairman, as I have been referred to several times, I want to put myself right. I think my friends do not understand my position. I am simply trying to relegate this matter to the Legislature. I will go as far as any of the gentlemen on the question of convict labor, and there is one thing in this article that I desire stricken out in the fourth subdivision, because of the very fact that it would permit convict labor to work upon public buildings outside of the prison walls. I say, too, that that is degrading to honorable labor, and I would preserve that work for honest labor and not have men who have committed crimes to do it. But I do not want to make it constitutional here. I think it is wholly unnecessary. No abuses have ever arisen and if they do, I say the Legislature will correct it.

The substitute offered by Mr. Van Horne was rejected.

The question being taken on the motion to strike out section 5, the committee divided by a vote of 33 ayes to 46 noes, the motion was rejected.

Section 6 was read.

Mr. ELDREDGE. Mr. Chairman, I move to strike out section 6.

The motion was agreed to.

Section 7 was read.

Mr. Evans of Weber offered the following substitute:

The exchange of blacklists between corporations shall be prohibited.

Mr. THURMAN. Mr. Chairman, I move to strike out that section together with the substitute.

Mr. STREVELL. Mr. Chairman,

would an amendment be in order at this time to the section?

The CHAIRMAN. No.

Mr. THURMAN. Mr. Chairman, I will say if there is any amendment that will help to make this at all a proper thing, I will withdraw my motion for the purpose of an amendment being offered. As it now stands, or as the substitute is presented, I do not think it ought to be adopted.

Mr. STREVELL. Mr. Chairman, I do not know that the amendment I have to offer would meet the approval of the gentleman from Utah. It is practically on the same line as the one of the gentleman from Weber, but I would offer to amend by striking out the words in line 1, "blacklisting or similar practices," and add "the exchange of blacklists," so that it would make it read in this manner:

The exchange of blacklists by railroad companies or other corporations or associations is forever prohibited.

Mr. EVANS (Weber). That is the same thing.

Mr. MALONEY. Mr. Chairman, I would be in favor of something which would prevent corporations, after employes are discharged, from sending lists of them to other corporations, thereby pursuing these men and hunting them down. I would like to know where the justice is of any such proceedings in any corporation. I do not object to any corporation, if they cannot get along with their employes, simply discharging them, but I do protest that a corporation has no right to pursue a man after he has left the employ of the company, and follow him into other states and territories and prevent him from getting employment, and thus starve his wife and children.

Mr. GOODWIN. Mr. Chairman, I would like to support this if some gentleman can explain how it can be enforced. If the Rio Grande Western, for instance, has a blacklist, no one can

prevent their keeping it, and they send it to the Central Pacific, outside of the jurisdiction of this State, how are they going to be punished? I think the thing is an outrage. I think it will be a dead letter in the Constitution, and that all the legislation that can be had upon it, will be equally ineffectual.

Mr. STREVELL. Mr. Chairman, in the arbitration bill prepared by Attorney General Olney, which was before Congress last year, he provides in this matter of blacklist, and it seemed to him to have been a matter of enough importance so that he has embodied in that bill an article which makes blacklisting a misdemeanor, and so on. I won't take the time to read it, but it seems to me it was of enough importance to receive consideration at his hands and possibly in that view, if no other, it should be inserted here.

Mr. EVANS (Weber). Mr. Chairman, I first offered a proposition to be inserted in the Constitution, and I think I can tell my friends from Salt Lake how the thing can be prohibited. It is simply a matter of legislation, nothing else. We cannot prohibit, as I understand it, a corporation from keeping a list of its discharged men, but we can prohibit those corporations from exchanging those lists with other corporations, and thereby forming a conspiracy by which these men may be perpetually kept out of work. That is the very thing that this provision is intended to reach.

Mr. GOODWIN. How will this strengthen the law that you proceed under against conspiracy?

Mr. EVANS (Weber). This reaches the exact evil which has grown up. It is designed to reach that particular evil and to stop that insidious practice of preventing men getting work when they have once made a mistake by a strike. That is the purpose. Now, I come from Ogden, right in a railroad center. Of course we pride ourselves upon the fact that we have the great

railroad center of this intermountain country, and we have seen some of the evils resulting from this very thing. We have seen there hundreds and hundreds of men, while I think they were in the first instance mistaken—thrown out of employment, men of families, good citizens in every other way, except the unfortunate thing of being connected with that strike, themselves and wives and families are nearly starving for bread. They leave their homes and leave their families at home and seek employment in other localities and as soon as they get in other localities, they are confronted there with a blacklist that the companies here have exchanged with other railroad companies and as soon as they are discovered they are discharged from their employment or not employed at all. The result has been that our citizens, many of them, have actually had to go under fictitious names in order to secure work. It is this very thing which we desire to prohibit in this Constitution. This is one of the cases where the evil has arisen—one of the cases where people ought to legislate. It does no corporation any good to keep these blacklists for their own purposes.

Mr. SQUIRES. I would like to ask the gentleman a question. How would you punish a corporation that violates this provision?

Mr. EVANS (Weber). Punish them just as you would an individual.

Mr. SQUIRES. In what way?

Mr. EVANS (Weber). By fine. You could not imprison a corporation, but you could fine the corporation or you might punish the individuals who are agents of the corporation. It is very easy to reach that matter; there is no trouble about that at all. It is just simply the question whether it is right or not that corporations should be permitted to do this thing. I believe that they ought not to do it. It is simply pursuing a man out of malice and ill-will, and nothing else. There are several of us gentlemen who live at Ogden,

and who are now upon the floor of this Convention, who took a very bold and strong stand against the injustice of the sympathetic strike which occurred last fall. We believed then that it was not right that that should occur in that manner, but, gentlemen, that did not mean that we argued that men who are engaged in it and who have ceased their combinations against the running and operations of railroads or the mails, should be pursued and punished and that the sins which they once committed should be visited upon their heads from generation to generation. And that is just what this insidious arrangement has amounted to. To pursue these men from one locality to another with malice for the purpose of preventing them from securing bread for themselves and families, I say it is not right. It ought not to be permitted, and for one I shall vote to have this go into the Constitution.

Mr. THURMAN. Mr. Chairman, I presume I have just as much sympathy with men and women in distress, and just as much interest in their having bread to eat, as any gentleman on this floor. But it seems to me like appeals of that kind are foreign to the business of this Convention. We are here to make a Constitution and to make a Constitution that will be practical and can be carried out.

Now, I say it is not in the power of this Convention to make a provision by which any corporation cannot go and examine the list of discharged employees of another corporation and the causes of their discharge, and refuse to employ any one of them. It is a question that we cannot reach. We may possibly prohibit by law one corporation sending a paper with a list of names to another, and pursuing them in that way, but what does that amount to? What does the substitute cure or reach? That is the question. If you want to accomplish anything and you can accomplish anything, you must say in so many words that the Legisla-

ture shall not authorize the employment of a man by one corporation who has been discharged by another corporation, and when you do that you get down to an absolute absurdity. If the substitute does not mean that, then it is ineffectual; if it means that, it is wrong; it is an infringement on the right and liberty of the citizen or the corporation, as the case may be, to pursue his happiness in his own way—pursue its business in that way that is sacred to every other individual. That is why I object to it. I think if there is any section of this article that ought to go out it is the section under consideration, and I think that if there is any matter in the world that the Legislature can deal with it is the section under consideration. We say the exchange of blacklists is hereby prohibited. Of course if that means that when one company has discharged a lot of men it cannot notify other companies and give them their names and receive a list back similar from them—if it means that, and that only, it is ineffectual. Perhaps that may be made a misdemeanor, but what you want to do, if you can do it—and that is what I say you cannot do—is to provide that one company shall not be permitted to hire men or to reject men that have been discharged by another company.

Mr. EVANS (Weber). It does not mean that all.

Mr. THURMAN. Then, what does it mean?

Mr. EVANS (Weber). It simply prohibits an exchange of these lists for the purpose of preventing them from getting employment.

Mr. THURMAN. You cannot reach it by your substitute. It does not come within a thousand miles of it.

Mr. EVANS (Weber). There is exactly such a provision in North Dakota.

Mr. THURMAN. I cannot help that. I cannot help what North Dakota has done. I can point you to fifty pro-

visions in constitutions of the states that have been declared absolute nullities. The fact that the constitution of another state may have a provision in it is not conclusive that it is practicable or that we ought to follow it. Now, on principle, I am just as much opposed as my friend from Weber County or any other man to the matter he has pointed out to this Convention, but I say the real thing that he wants to reach by his substitute, his substitute does not reach, and it cannot be reached by any provision that we can put into this Constitution. We must concede the fact that there is a limit to even the power of this Constitutional Convention. We cannot infringe upon the inalienable rights of men, and we consider the right to acquire property in a legitimate way, to employ labor, to discharge laborers for cause, to be a legitimate operation of these inalienable rights, and any law that undertakes to say that I cannot go to my neighbor in business and find out from him the character of men that he has had in his employment, with their names, and if they have been discharged the reason for their discharge, with a view to informing me whether I want to employ those men or not—any law that is made by any legislature would be void and any constitutional provision that would be made by this Convention would not be worth the paper upon which it is written. I do not know what it is the attorney general has written about, nor how far reaching it is, but even he and his opinion will not make that law which cannot be the law. I do not think that we ought to have this in the Constitution for the reason, as I said, when I made the motion, it is utterly impracticable to carry out. It is wrong in principle. We are getting wild here, gentlemen, in this article on labor, and thinking that we are pleasing the laboring men. The laboring men have a wonderful vote in this country and we

want it. Now, I think we ought to get down to constitution making. Protect labor and capital equally by the laws of the land and see that one does not infringe upon the rights of the other. This article ought to all go out. That is the truth about it; at the risk of incurring the unfriendly feelings, if they cannot understand that my motives are right—I say the whole thing is wrong in principle and ought not to be in the Constitution in the shape that it is proposed.

Mr. SMITH. Mr. Chairman, I notice in our bill of rights, section 7, it is provided that no person shall be deprived of life, liberty, or property, or be outlawed or exiled without due process of law, and in section 11, that all courts shall be open and every person for injury done to him in his person, property, or reputation, shall have remedy by due course of law, and right and justice shall be administered without sale, denial, or delay. It seems to me that the position of Mr. Thurman upon this question is absolutely unanswerable, and that in every effort we make in the direction of seeking to legislate in this matter, we simply are tying our hands and putting ourselves in a position that we accomplish no good for the men that we would seek to benefit, but upon the contrary, we place trammels around the possibility of the Legislature in the future doing anything by which they could be protected. And with him, I agree upon the proposition that this ought to go out and will cast my vote against it.

Mr. KEARNS. Mr. Chairman, before that question is put, I want to give the committee my views on it. I think that that section should be retained, and I cannot see where it is going to create so much distress in the Constitution by leaving it there. It is very true that our jurisdiction is limited only by the bounds of this State. The very question that that is aiming at in this Territory and along the bordering states has been

carried to a great excess through this strike last summer. I know of my own knowledge where the detectives of the Union Pacific road followed men and they tried to get them to let up. One man wrote to me and asked me to give him a letter that he was in my employ. I had a letter from another party explaining his age, his build, his description in full, and wanted to know if I had employed him. I very seldom lie, but I gave the man a clearance. When you discharge a man, because he does not fill your wish and he is not suitable to you, and you follow him somewhere else and deprive him of an honest day's work, you are depriving his wife and children of the hungry bite of bitter charity. They say, how are you going to prosecute them? If a man was to follow me and beat me out of my honest day's work, I would kill him, and I think the execution would not be any too great for a man that follows another from here to the city of Chicago to beat him out of an honest day's work. And I trust to the members of this Convention to retain that section and it will be a credit for them.

Mr. STREVELL. Mr. Chairman, it seems to me that section 7 of the bill of rights would be just exactly the opposite from what he says. It seems to me under the operations of this blacklisting scheme carried on by the railroad companies it would be just that very thing. It would deprive those men of life, liberty, and property, without due process of law. I think the scheme of blacklisting as it is carried on, or as I understand it, would deprive them of that very life and liberty.

Mr. CRANE. Mr. Chairman, I trust this section will remain. I believe that this was brought before the people of this Territory in 1894 and I am extremely pleased, Mr. Chairman, to see our friends in Weber County endorsing this section, because that was one of the planks of the republican platform presented to the people last November,

and it was upheld by the republican party. For the information of those who perhaps may have forgotten it, I desire to read the articles or part of the platform which the majority of the people of this Territory upheld and which I am free to say are now upheld and endorsed by several of our friends on the other side: "We oppose as cruel and unjust the blacklisting of the employes who are discharged from or leave the service of the employer." I believe that there is a section in this article on labor that should be endorsed by this Convention. Many of the gentlemen are working men and if not working men have been in years gone by. I believe that that is the very meat in the cocoanut of this article. I believe it is a measure of justice and right to the laboring men in the various industries in this State, and will be more so in the future. I trust that this article will remain and be endorsed by the majority of this committee.

Mr. RALEIGH. I shall ask the gentleman from Utah (Mr. Thurman) if it would not cure this section by making it a misdemeanor?

Mr. THURMAN. I do not think that would make any difference if you made it a felony, from my standpoint. I may be wrong. I think it ought to go out. By adding a penalty to it would not make any difference.

Mr. SMITH. Mr. Chairman, in regard to this platform proposition, so far as I am concerned, individually, in regard to this matter, it seems to me that the blacklisting proposition as contained in the platform is not reached in this proposition, because it will be ineffective in every way, shape, or form. You may put it there, you may seek to work it and it is impossible to work it. A party so far as it is concerned can exercise its influence against the men who might possibly blacklist laborers, but when it comes to an application of the law it is literally impossible for that thing to work in any way or shape or form

that would bring about a change. It is true men fall into disgrace, do wrong things; they cannot wipe them out only by the acts of their lives afterwards, and so far as our trying to make them honest because they have been blacklisted, by an enactment in the Constitution, it is simply wild. It will never accomplish the purpose.

Mr. FARR. Mr. Chairman, I tried several times to get up and am not quite so young as some of the members. I have arranged my business at home to stop here all summer. I am in no hurry. I was in a hurry on the start, but I have got all over my hurry now. I want to know how we are going to make a law to make men honest. I do not know of any way. I would hold up both hands and support it if you could, and if there is a man goes to work for me and tells me that he has left a place or a half a dozen of them and I want to employ men, I can, with regard to whether they are competent men, right straight, and write to the men he has just left a short time before and find out their character. I would like to know what there is to prevent those men telling me what they know. I can tell you that all the talk this afternoon is all time thrown away and you will find it out. It does not amount to a hill of beans.

Mr. HOWARD. Mr. Chairman, I hope that the section will not be stricken out as reported by the committee. I would like Mr. Evans' section, provided it went as far as this, because this says blacklisting or similar practices. If the words, "similar practices," were added to Mr. Evans' substitute, I would vote for that, but I do not want to see it stricken out. We already have laws in our statute books that provide penalties for slander and for libel, and the penalties are more or less severe, according to the aggravation of the crime. Now, I think that this will go so far. I think that corporation that will give the name of a man that they disagree

with to another, for the purpose of prohibiting him from receiving work, is committing just as great a crime as the man that commits a libel or slander upon another. He is trying to keep him out of work. He is trying to keep him from earning an honest dollar for the support of his family. I think we ought to put it in the Constitution and keep it there. That will prevent parties exchanging these blacklists. They have to do it by writing one to the other. That is just as much a letter as it would be for me to write a letter and slander some member of this Convention, and I think we ought to retain it.

The motion of Mr. Thurman was rejected.

Mr. HOWARD. Mr. Chairman, I would move an amendment to Mr. Evans' substitute, that the words, "or similar practices," be inserted after the word blacklisting.

Mr. EVANS (Weber). I will accept that. I want to say, Mr. Strevell's amendment is in the right line, but I think it is wrong to say that blacklisting shall be unlawful or prohibited. I think a corporation has got the right to keep a list of its own discharged employes, but my amendment seeks to prevent an exchange of those lists; that is the only difference.

Mr. STREVELL. You leave out the word "railroad corporations," and one or two other things.

Mr. EVANS (Weber). Yes; I use the word corporation.

The amendment offered by Mr. Strevell was read.

Mr. THURMAN. Now, Mr. Chairman, "similar practices." That is a somewhat amusing thing to go into a state constitution. We prohibit a thing which in itself has no definite meaning, and not only that, but we go further and prohibit similar practices. I think we are reducing this whole thing to an absurdity.

Mr. SHARP. Mr. Chairman, I move

to insert the word, "or persons," after the word "associations."

Mr. STREVELL. I will accept that amendment.

The amendment offered by Mr. Strevell was agreed to.

Mr. RALEIGH. Mr. Chairman, I have always been used to hearing some penalty attached to the violation of a criminal law. Now, I would like to get something in there that when they are discovered doing something that you say they shall not do, that there is a penalty. I move that it shall be declared a misdemeanor. No second.

Section 8 was read.

Mr. BOWDLE. I move to strike out section 8.

Mr. STREVELL. Mr. Chairman, I object to striking out section 8 for this reason, if no other, that it is taken word for word from the new constitution of the state of New York.

The motion was rejected.

Mr. ENGBERG. Mr. Chairman, I move a reconsideration of section 8. The action is ever too rapid. I rose to offer an amendment and was not recognized. I offer the following amendment to section 8, after the word "limitation," "the Legislature shall provide for the protection, in places of manufacturing, mining, and other industries, of the lives and persons of employes."

Mr. MALONEY. Mr. Chairman, I do not think it relates to the section at all.

The amendment was rejected.

Section 9 was read.

Mr. KERR. Mr. Chairman, I move to strike out section 9.

Mr. IVINS. Before that motion is put I want to ask Mr. Crane if it is in the republican platform.

Mr. KERR. I will state that my reason for moving to strike out section 9 is that we have already provided that the statistics shall be taken once in five years, and it seems to me that all the information required on this subject can be obtained at the time the

census is taken, so that it is unnecessary to provide for a separate board.

Mr. STREVELL. Mr. Chairman, before we vote on that, I would like to explain the idea of the committee in inserting that section. Three states have similar provisions, Idaho, Montana and Maryland. The idea was this, that the work could be done by one of the State officers, at very slight expense, and the collection of statistics in regard to immigration and the different industries in the State, would be of very great benefit to a great many persons in the State, and a great deal of information that would be collected there would be absolutely necessary for the governor in making his report to the Legislature, in order to provide for things which, in his judgment, would be proper.

Mr. CRANE. Mr. Chairman, I trust that that provision will not be stricken out. I think that this is a very important matter, and one that is of great good to the entire State. As I understand it, this commissioner who shall be appointed or elected by the people, will collect all the statistics—all the information regarding the capital invested, the number of men employed in the different industries in the State, the earnings of the laboring men in different districts, and the different employments. It not only does that, Mr. Chairman, but I believe that that section also was endorsed by the majority of the people last November, and for the information of the gentleman from Washington County, who asked me a question just now, I will say that this is part of the platform that was endorsed by 21,000 people in this Territory on the 6th of last November.

Mr. IVINS. Then, I withdraw my objection.

Mr. CRANE. For the information of the gentleman I want to read this plank in this platform, and I trust the gentleman will endorse it, as I believe will the gentleman from Weber County. (Reads.)

And I trust, Mr. Chairman, that this section will not be stricken out, but remain as the voice of the people as expressed in 1894.

Mr. EVANS (Weber). To which section does the gentleman refer, the section in the platform or the one in the article we are now considering. [Laughter.]

Mr. KERR. Mr. Chairman, it does seem to me that this section is entirely unnecessary. We have provided that a census shall be taken in 1905, and every ten years thereafter, and the Legislature shall pass such laws as may be necessary to carry out this provision in the Constitution. Now, all the information that may be desired upon this or any other subject can be obtained at the time the census is taken in accordance with this provision in the Constitution. It does seem to me that the section is unnecessary.

Mr. SQUIRES. I want to call the gentleman's attention to the fact that the first census under that provision would not be until 1905. That is ten long years, hence information on these subjects may be needed in a great deal less time than that. For that reason, I think this provision should remain in the Constitution.

Mr. KERR. Are there not statistics being taken now?

Mr. SQUIRES. Not along this line at all.

Mr. HAMMOND. Mr. Chairman, I would like to inquire for information, if we, by striking out this section, prevent or prohibit the Legislature from gathering these statistics if they should feel it was necessary?

The CHAIRMAN. I should think not.

Mr. HAMMOND. If we do not, I should say let it go.

The motion to strike out was agreed to.

Mr. STREVELL. Mr. Chairman, I wish to introduce a new section:

The Legislature shall, by appropriate

legislation, provide for the enforcement of the provisions of this article.

I call attention to the fact that in the article on blacklisting and one or two others, it seems to be lacking in that respect.

Mr. SMITH. I would like to ask the chairman of this committee a question, and that is in regard to the number of officers that he thinks will be necessary to carry out this article—how many officers the State would have to employ in connection with it? It is a question of economy.

Mr. STREVELL. I will answer the question to the best of my knowledge. The committee as a whole, I think, did not go into that matter, but there were several remarks made upon the question. The idea is that if we establish this bureau for the collection of statistics and so on, that that gentleman might, in case the Legislature saw fit, be one of the committee or board of labor arbitration, and that in case there was anything to arbitrate, he would endeavor in the first place to place himself in connection with the people, and then, if it was necessary to call the board together, he would have the employes choose one man and the employers another; that would make a board, and there would not be a regular salaried board, and in that way, having a board called together only for the time they were needed, it would be very inexpensive, and I do not think now of any other place where we have provided that he shall be a salaried officer.

Mr. EVANS (Utah). I would like to ask Mr. Strevell a question. Did you think that if this section that you now propose were to be carried it would strengthen the Constitution at all?

Mr. STREVELL. Well, I introduced the section because it has been called to my attention that it would be better to do that. For instance, the matter of blacklisting, as I say, we simply prohibit it. We do not say that the Legis-

lature shall enact legislation to carry that into effect. I introduced the section because several gentlemen told me that they thought it was entirely proper to do so, and that it should be done in order to carry out the provision.

Mr. EVANS (Utah). Mr. Chairman, I take it for granted that we have expressed and indicated in this Constitution, or will do before we get through, the will of this Convention, and that is supposed to be the will of the people, and that the Legislature will proceed to carry it into effect by making laws upon these subjects, and as I take it for granted, this could not strengthen that position one particle and it would have a tendency to cumber our Constitution and make it more voluminous. I am opposed to it and hope it will not prevail.

Mr. STREVELL. I would like to ask the gentleman a question. Is there anything to carry that into effect unless the Legislature does?

Mr. EVANS (Utah). No; but I say the answer to that is, this does not strengthen it. This does not compel the Legislature to do it, and upon that same theory if that be true, then we ought to put it at the end of every article.

Mr. STREVELL. I do not know whether I have covered the ground or not. I have tried to.

The question being taken on the section offered by Mr. Strevell, the committee divided and by a vote of 39 ayes to 31 noes, the section was adopted.

Mr. BUTTON. Mr. Chairman, I want to introduce a new section:

The first Monday in September shall be a legal holiday and known as labor day.

The section was rejected.

Mr. CANNON. Mr. Chairman, I move that when we do arise, we report this article as amended and request that it be placed upon the calendar for third reading.

Mr. SMITH. Mr. Chairman, I move that the whole article be stricken out.

The motion of Mr. Smith was rejected.

The motion of Mr. Cannon was agreed to.

The committee then proceeded to the consideration of the article on revenue and taxation.

Section 1 was read.

Section 2 was read.

Mr. CANNON. For the information of the committee I would state that this article is taken from Washington principally, with the exception of the definition of the word property as defined here is taken from the constitution of Montana.

Mr. VARIAN. Mr. Chairman, I see the provision concerning the taxation of stocks in lines 9, 10, 11, 12 and 13, is to the effect that where the property of the company or corporation has been taxed, the stocks are to be exempted. I would like to ask the chairman of the committee what objection there is to taxing stocks in foreign corporations? Suppose, for instance, the stock is held in this State of a company holding property in New York. If it is properly here, why should the person holding the stock here which may be equal to money—bankable any day, be exempted because the New York corporation pays a tax to the state of New York? Has that question been considered?

Mr. CANNON. Yes, sir; the question has been considered, I would answer, and in the minds of the committee, based partly upon an objection by Mr. Varian himself to a somewhat similar principle, we constructed the words, "is within the State." The committee considered it in this light, that if a corporation paid its taxes—for instance, if a man had a herd of cattle in Arizona and resided himself in Utah, and if the cattle were taxed in Arizona, we did not think it right that he should be taxed on his stock in that corporation, if he resided in Utah. We thought that the tax hav-

ing been paid once was enough. It is a species of double taxation. We made no distinction, therefore, between whether the property was taxed here or taxed in adjacent states and territories.

Mr. VARIAN. Mr. Chairman, I think the gentleman is in error, if he attributes an objection of that kind to me. I had in mind all the time just the very point I am making now; I do not believe that you ought to yield the right of taxation in that way, nor do I believe that because certain species of property may occasionally be taxed twice, that that is any reason why this jurisdiction should refuse to exercise the right of taxation over again. I think that if a man owns stock for instance in a corporation like the New York Central Railway Company or Pennsylvania Central, or any other dividend paying stock, that he ought to be compelled to pay taxes on it here. It is property. I will make the motion to insert after the word "taxed" "within this State," in line 13. Now, if that amendment shall prevail the property of stocks—corporations owing property in this State, where the property of the corporation is taxed, will be exempted, but stocks in foreign corporations in other states in the Union or brought where the property shall be taxed by the other sovereignty will not be exempt here, and I say on principle they ought not to be exempted.

A large proportion of the wealth of the country is in personalty. If I have my neighbor's note for five thousand dollars, and it is bankable, you will tax it for what it is worth. If it is worth five thousand dollars and I am an honest man and if the assessor is an honest man and does his duty, you compel me to pay a tax upon it, and yet my neighbor may have the five thousand dollars that I have loaned him, either in specie or in property to which he has interchanged it and is compelled to pay a tax on it. Property multiplies itself

and sometimes the real underlying property, such as money or goods and chattels, may find its representatives in different hands many times. Now, what is the difference between a note and stock that is worth a hundred cents on the dollar and you can go to any bank in the community and get the money on it? I do not think that this State need concern itself with the tax laws of other sovereignties, but if New York, in the instance I cite, is willing and cares to tax the property of the corporation, that is the business of the state of New York. We are not taxing the corporate property here. We are taxing the value of this estate represented by the stock in the hands of the person within our borders, be he citizen or not, and we ought to tax it. And I will tell you, gentlemen, that you cannot afford to let any legitimate subject of taxation escape under this new State government. You will need it all. You cannot afford to make any of these discriminations or distinctions.

Mr. RALEIGH. Let me ask you a question. Suppose I lend you a thousand dollars and you put that into a farm. That farm is taxed to its full cash valuation. If you tax me for that mortgage, would not that be double taxation of necessity?

Mr. VARIAN. No, I think not. I think there is a great confusion about that.

Mr. RALEIGH. Perhaps I might not have made myself understood. I mean if you tax me one thousand dollars on that mortgage and tax the man that owns the farm the full valuation of the farm, and not exempt any portion of this one thousand dollars?

Mr. VARIAN. I understand the gentleman, I think. That is not this precise question, however, but in answer to that I say, no. I say the money and the farm represent property in the hands of the person owning it. I say the note or mortgage represents property just as much in the hands of the

person owning that. You can readily see how the property may be taxed in one sense in three different forms. It is not the same property in reality, yet it is created; it has grown out of the same property. You can take a thousand dollars, pass it over to your neighbor and take his note for it, and both you and the neighbor may be taxed during the same taxing season. He on the thousand dollars that he has, or if he puts it into horses, or into cattle, or into sheep, or into any kind of property, real or personal, he is subject to taxation, if he has it during the period described by law for making the assessment. On the other hand, I have what is the equivalent of the thousand dollars. If I had retained the thousand dollars I would have been required to pay a tax on it. I have the representative of value which is under the protection of the law. Your courts are open, your officers are at my services to protect that species of property, which has come into existence by this species of barter and sale. But that is not precisely this question. The question is here whether a man whose fortune may be invested in stocks of foreign companies—they may be any kind of stocks, where the business is carried on in other countries or under other jurisdictions.

It does not alter the fact, Mr. Chairman, that the property that he has and for which he has exchanged his money—he has taken his money out of this Territory, sent it into the other states to invest it, and received back a representative of value, which takes the place of the money that ought to be here, and is not here for taxing purposes. It is just the same to him as if it were money and it ought to be taxed. It is a representative of value; it is just as much property as real estate is, and you all admit that if you take a note of your neighbor here in Utah and it is a solvent note, you are required under the law and always have been,

to pay a tax upon it, but a few years ago a discrimination was made in favor of notes secured by a mortgage and against notes that were unsecured. The unsecured notes to-day have to pay a tax, the secured notes do not have to pay a tax, and it has brought about a great deal of confusion, in my judgment. It is unjust and discriminating. The man who takes his neighbor's note without security, goes on the street and takes the note of any business man for a time or a call loan for any amount of money, is compelled under the law if he acts honestly with himself and with the people to pay a tax on it. If he secures it by a mortgage, whether it be on a fifty dollar lot or a five hundred thousand dollar lot, he is exempted from taxation. I do not desire to go into this discussion. I simply want to state my views and reasons for offering this amendment.

Mr. CANNON. Mr. Chairman, I trust this motion will not prevail, to insert the words that have been offered, for the following reasons—in the first place the question of taxation of notes will come up later under another section. I will not discuss it here, but I desire to call attention particularly to the effect that this proposed amendment would have. As the section is now, it provides that this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property has been taxed, etc. As amended, it would read, "represented by such stocks is within the State and has been taxed." I call your attention to the fact that if a man invests his money in a herd of cattle, over in Nevada, or in any adjacent state, he would be taxed there for his property, and no tax would be levied upon him in Utah. If a man, for instance, had a herd of cattle of one thousand head in Nevada, he would have to pay his tax there, but you could not in Utah, because he resides in Nevada, tax him for his cattle, which are in Nevada. What

is the difference between that man and a lot of poorer men who get together and form a co-operative herd of any kind, either cattle or sheep, or anything of this character? If the man who is poor unites with several of his neighbors and they put their money together and buy the same number of cattle in Nevada, and incorporate, if it is a thousand head of cattle, there, under this amendment, they would be taxed in Nevada, and their stock would be taxed in Utah, because there is no tax paid on the property in Utah. Why should it discriminate in this manner? I claim that there should not be a discrimination.

Mr. VARIAN. Did you ever know of instances where a herd of cattle were started in the spring and driven through several states and where they were taxed in every state?

Mr. CANNON. No.

Mr. VARIAN. Because I can tell you it happens nearly every year.

Mr. CANNON. Well, is that just?

Mr. VARIAN. In one sense, it is just, yes. He gets the benefit of the state laws where he is for the time. At all events, I would answer that by saying that you cannot make a tax law that is absolutely and perfectly in the abstract just in its operation.

Mr. CANNON. We may not be able to make it perfectly just, but we want to make it just as just as possible.

Mr. THURMAN. Will the gentlemen yield for one question? Suppose the man has his stock in Nevada or his cattle and owns them in an incorporated company, he has the certificate of stock in his pocket. Is that property?

Mr. CANNON. The certificate of stock represents that which is property.

Mr. THURMAN. Suppose that he puts that certificate up as collateral and he gets more stock here in Utah—I mean more cattle, would those cattle be taxed?

Mr. CANNON. Yes, they would be taxed here.

Mr. THURMAN. And yet it is the same thing; it is simply changing the property, is it not, from one shape into another?

Mr. CANNON. No, sir. In the second case, he has borrowed money and with that money he has procured cattle. I will call your attention to the fact that merely calling it by the name of stock does not change it. The man who has the bill of sale of cattle in his pocket might borrow money on that bill of sale, and if he did so, you would not tax his cattle in Nevada that he originally had and tax the same cattle in Utah, and then again tax the cattle which he bought; it would be absurd to do such a thing. I do not think any one here will claim that it will be possible so to do. I claim that we should encourage the citizens of Utah to be enterprising. I claim that they should, if they see fit, go out into a dozen states and territories, and if they should combine in co-operative herds or in any other way, they should only be taxed as individuals. The fact that they are a corporation should not militate against them. We will take the New England states, and men who have lived there have gone into all parts of the world, and it is what has made New England what she is, because her men have been enterprising and gone out. Now, shall we say to the men in Utah—"You cannot go outside of our borders and transact business without being taxed, not only where you do your business, but here at home. You shall pay a double tax, you shall pay a tax where you have your cattle or your enterprise of any kind and we will require you to pay it again at home." I claim that that would be an unwise discrimination to do anything in that way.

Mr. VARIAN. Mr. Chairman, just one word now as to this question of corporations. I think the purpose for which corporations were originally designed has become very much abused. I do not

think that anything particularly encouraging ought to be held out in constitutional legislation in that direction. As it is now, even in this Territory, private individuals no longer are willing to carry on the ordinary business of the community as individuals. If a man wants to open a store, he proceeds to gather in one or two individuals in order to get the requisite number to form a corporation, and he carries on his business in a corporate name. He evades all the just responsibilities of business life. If he fails, there is no personal liability attached to him. That has been going on here on the Pacific coast until it has reached almost a state of perfection in Utah. And I am not willing for one that any further encouragement should be lent to them.

The design of corporations in the first instance was to enable individuals to carry on gigantic undertakings, or at least undertakings too great for individual enterprises; it has been prostituted to base purposes. Now, if they want to form corporations to carry on a cattle ranch or a sheep herd, and want to take the property out in another state and make the investments there and live here under our law, I say that their stock representing their interests in the corporation in so far as it is of a money value and marketable ought to be subjected to our taxing laws, and I say it is just in principle and it is right under any system of taxation. In most of the states—I have in mind Ohio, they have public officers appointed whose duty it is to investigate the records of other states and territories with a view to ascertaining the investments made by the citizens of Ohio in those states and territories so that they may be brought within the operation of the taxing law. A man in Ohio goes out to Colorado or Utah and puts his money in a mortgage on real estate; if he does not give it to the taxing officer there and it shall be discovered—there is no limitation of time, I believe—by the

officer appointed for that purpose, by the state, he is retaxed for years with penalties.

It is a recognized right of sovereignty. You cannot look at it in this little way—looking at it from the standpoint of two citizens making a barter and sale. It is a great principle of taxation, the right of sovereignty is involved, and you must look down on it in that way. If it is property, it ought to be taxed and no discrimination ought to be made for or against the citizens of this State.

Mr. CANNON. Do you admit that there is in this case a distinction between individuals and corporations having property outside under your proposed amendment?

Mr. VARIAN. No; I do not think that question properly arises. I would simply tax individuals upon stock in corporations, whose property and place of business are out of the State.

Mr. CANNON. In the case I cite would it not be true that you could not tax me for cattle in Nevada?

Mr. VARIAN. I do not remember just exactly what you refer to.

Mr. CANNON. If I own cattle in Nevada could you tax me with those cattle here as an individual?

Mr. VARIAN. No.

Mr. CANNON. If I incorporate a company and own the same cattle in Nevada and hold the stock here, you would under this provision tax me here?

Mr. VARIAN. I would tax you on the stock if it was worth anything, because by the fact of the launching of the enterprise you have produced new wealth in the world. By the creation of the stock you add to the wealth of the world. The major portion of it is in that kind of shape.

Mr. CANNON. Mr. Chairman, I believe the people of Utah have had a great many corporations for the purpose of owning and handling cattle and stock. I believe that the vast majority

of those corporations have been formed with honest intentions and that they have never defrauded people more than persons. I believe that there should not be a distinction made between a private citizen who is wealthy and owns cattle and sheep and who can live exempt from taxation with his cattle and stock in adjacent states and territories, and a number of men—a community who combine together and form a stock company and own cattle and sheep in the same way; and the same principle will apply to all other articles.

Mr. MACKINTOSH. I would like to ask Mr. Varian, suppose that you purchase a mine across the borders for a hundred thousand dollars and incorporate it here and pay your taxes over there, would you have to pay them here again on the stock?

Mr. VARIAN. It would reach that case, if the stock was a valuable stock. It would depend upon its value. I will answer the gentleman by saying that if his stock was lost—like there used to be many mining stocks put upon the market, turned from hand to hand, and worth money, they are just as much property in my view under the taxing law as if it were a promissory note.

Mr. MACKINTOSH. Would you think it a fair and just plan?

Mr. VARIAN. I do, most assuredly.

Mr. MACKINTOSH. After paying them over there and then paying them here?

Mr. VARIAN. Because I take the view that it makes new property. When a man's note comes on the market, while it is there it is additional property of the commonwealth and remains such until its extinguishment. Like a bank note, it has a value until it is extinguished and called in.

Mr. MACKINTOSH. Wouldn't you check a great deal of enterprise in that way, by taxing them so as to tax them here again?

Mr. VARIAN. I do not consider you are taxing them here again.

Mr. MACKINTOSH. Well, it is a double taxation.

Mr. VARIAN. I do not consider it so. The improvements in Nevada on a mine are all that are taxed, and the gross product. If the mine is a dividend payer the stock is valuable, if it is not, the stock is worthless.

Mr. MACKINTOSH. It might be valuable in my estimation.

Mr. VARIAN. I am speaking of value in the marketable sense.

Mr. MACKINTOSH. Supposing he sells it for twenty dollars a share?

Mr. VARIAN. Well, tax it on twenty dollars a share.

The question being taken on the amendment of Mr. Varian, the committee divided, and by a vote of 29 ayes to 33 noes, the amendment was rejected.

Section 3 was read.

Mr. ANDERSON. Mr. Chairman, I move that section 3 be amended by striking out the words "either religious worship or," in the 14th line. I think that by retaining that it will discriminate against certain citizens of the State. We are making this Constitution for all future time, and there may come a time when probably half of the citizens won't believe in any church.

Mr. THURMAN. There won't be any religious worship then.

Mr. ANDERSON. If the property belonging to a church is exempt why they will have to assess it to pay the taxes.

The amendment was rejected.

Section 4 was read.

Mr. VARIAN. Mr. Chairman, I move to strike out all of the section down to the word all, in line 13. Now, I want to direct attention to the fact that whatever opinion may exist as to the justice of taxation provided for in the clause that I move to strike out, that is to tax mining claims arbitrarily in a fixed sum, that it is in violation of all principles of taxing laws. By this section you arbitrarily fix a sum or value by which for all time you are going to tax a certain species of property. The un-

derlying principle of all taxing laws, as clearly declared in the section just passed, is that the property shall be taxed at its just valuation. This means that you must provide means and methods for ascertaining what the just valuation is, but you are going to say here by a provision in your organic law that every mining claim, no matter where situated, in what section of the country, is to be declared to be worth five dollars an acre, because the government price was five dollars an acre. Now, you will observe that that eliminates entirely from the problem the question as to its valuation. I contend further that it is impossible to reach a just valuation of mining claims in that way. The only fair, the only equitable adjustment of that question is found in the subsequent clause of the section. You tax the net proceeds. When you get proceeds out of a mining claim, then, for the first time, you know what you have got. After you take your expenses and the cost of production, get that product into bars or bullion, or at least into personal property on the top of the ground, and it becomes added to the wealth of the country, you know then what you have got and you can tax upon some actual basis. I do not know why this committee want to impose additional arbitrary tax, which, as I have indicated, is in violation of the principle of taxing laws, upon mining claims, and I trust that the motion will receive consideration.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to the motion of Mr. Varian to strike out the words indicated in section 4, and I desire to remind him of some statements which he has made with respect to other matters, on the question of taxing stock of foreign corporations. He stated there that the question of taxation was a question of sovereignty, that is, we must tax, he says, all property in sight for the support of the new State. He was asked respecting some stocks of certain

value, whether they should be taxed, although the property representing those stocks was outside of the State. He says, yes, now, tax them at their full value. Well, now, that is not what we have proposed to do in this section. So far as mining is concerned, I am probably more favorable to that than any other industry in this commonwealth, because it is the very life of the Territory, always has been, and always will be, so long as it exists. Because mining and agriculture go hand in hand, and we cannot develop one very well without the other. But just entering upon the new State, as we are, we find that it will be absolutely and indispensably necessary to create revenues to carry on the legitimate expenses of the government. Mining, in the past, has been greatly favored so far as the question of taxation is concerned. The only thing which has ever been taxed yet in Utah is the improvement upon mines; not even the net products have been taxed. None of the surface ground has been taxed, and with the great benefit which mining has given us, yet at the same time we all know that some men have amassed great wealth from the products of mines and yet have paid nothing whatever toward the support of the Territory. I do not say that in disparagement of any gentleman who has been in the business of mining, but now we have come to that point where it is necessary to raise some revenue. It is going to be burdensome enough upon the poor farmer, the shopkeeper, and the man who is engaged in the various avocations of life in this Territory, to have to pay taxes to support the government.

The gentleman from Salt Lake asserts that it is not right in principle that surface grounds of mines should be taxed, because the net product represents the only thing of value taken from it. Why, suppose, Mr. Chairman and gentlemen of the committee, that we were to apply that principle in this Territory to

the farmer? What are his net profits? Does he have any at all? Doesn't he simply eke out an existence from day to day upon his farm, raising his cows, and calves, chickens, pigs, taking his eggs to market, and as suggested by the bishop on my right that even the babies that are produced sometimes have to go to market. I happen to be fortunate or unfortunate enough to own some mining property in connection with others, and so far as I am individually concerned I make no objection to levying a tax to the amount of the government price upon the surface—upon the actual acreage that is included within the mining claim. This section which is proposed to be stricken out will strike out "the government price on mining claims," which I believe is five dollars an acre.

Mr. SQUIRES. Two dollars and fifty cents on placer and \$20 on coal land.

Mr. EVANS (Weber). Now, if that land be worth the government price when it is patented, why not permit the State to tax that surface ground at the government price? It is undoubtedly worth that or the person that applies for patent would not pay it and take his patent. It is a very light tax, indeed, but still in this aggregate, the whole surface ground which is occupied and patented in the Territory will amount to a considerable sum in the aggregate. Another question is coal land. They are taxed at \$20 an acre. That is the governmental price. If they are worth that, and they undoubtedly are, or corporations would not secure the patenting of the ground, then why not tax them at twenty dollars, if they are worth it, upon the theory which my friend from Salt Lake bases his argument? And then, the other question is, which is proposed to be stricken out, that if the surface ground be used for any other purpose then it shall be taxed at the value of the purposes for which it is used. Is there anything unjust about that?

Mr. VARIAN. What could it be used for, I will ask you?

Mr. EVANS (Weber). Why, there may be such a thing as cultivating it. It could be used for stock yards. It may be that surface ground would be used and in almost every mining camp in Utah, it is used for little homes.

Mr. VARIAN. Will the gentleman permit me a question? What is to prevent them from taxing the little home or the possessory right for the use to which it is put?

Mr. EVANS (Weber). It is taxed. If I own a mining claim and I let out the surface of the claim to the men in the mine, and they build little houses on it, their little houses and their improvement are taxed. I am their landlord, exacting from them monthly rents, because they are using the surface of my mining claim, and I am not taxed at all. It is only the tenant.

Mr. SHARP. May I ask a question? Would not this section 5 for taxing school lands at twenty dollars an acre apply after the coal was exhausted?

Mr. EVANS (Weber). It would.

Mr. SHARP. Forever.

Mr. EVANS (Weber). No, I doubt that. I think that when the coal is extracted from the land, it is not coal any longer. I do not think it would come within the spirit and meaning of the section. But if your coal were exhausted and you were to use that land for other purposes, such as building upon it and renting the houses, then it ought to be taxed for its actual value. I do not believe that any court would hold that where coal has been taken out of the land—stripped of all the coal—that a court would hold that that was coal land under the meaning of the Constitution, but it would be only such coal land as has not been exhausted. Montana has a provision exactly similar. Indeed I know of but few mining men who have complained at this section, as it is reported by this committee. I believe that our friend, Mr. Mackintosh,

who represents more mining ground than any other gentleman, probably, upon the floor of the Convention, stated in his committee that he was satisfied with the provision, that the committee was dealing fairly with the mining interests of this Territory. There is nothing in the section which will discourage the industry. If there were, I should vote against it. In the first place, the only thing that a man would have to pay would be for the surface ground alone at the government price. Think of it, only five dollars an acre until his mine commences to produce, and when it does, then he is to pay the tax on the annual net profits.

Mr. VARIAN. In addition—he pays both taxes?

Mr. EVANS (Weber). He pays both.

Mr. VARIAN. Yes, double taxation.

Mr. EVANS (Weber). Now, the reason why that is done—Mr. Varian, I think understands that is because it is impossible for the assessor to determine the value of a mining claim. It might be speculative, it might contain large deposits of mineral or it might contain none at all; but the presumption is that it is worth the government price, because the person that has taken it up and entered it, pays that price for it. And it is only a nominal price anyway.

Mr. MORRIS. What about claims that have been abandoned for years—purchased from the government and the mining fail, still it is in their name, but it is of no use whatever—in the mountains, not available for agriculture, but the company have bought that land and paid for it and spent perhaps fifty thousand dollars on it and it proved a failure, and that is the end of it, would that be taxed to them?

Mr. EVANS (Weber). You mean the land itself—the surface ground?

Mr. MORRIS. The mine.

Mr. EVANS (Weber). The ground would be taxed at five dollars an acre. It would be a mining claim just as your

arm would be taxed if you were to abandon it.

Mr. MORRIS. Suppose they have left it entirely?

Mr. EVANS (Weber). If they have left it entirely, I suppose it would be sold under the hammer of the collector. It simply would be worthless to him or anybody else. But I will remind the gentleman from Salt Lake of the fact that it is only that ground which is patented that is taxed—it is not that which is held as a possessory right. I am in favor of retaining the section just as it is.

Mr. EICHNOR. Mr. Chairman, I move that the committee rise and report progress.

Mr. VARIAN. Mr. Chairman, I hope they will dispose of this matter. One thing more I desire to say. I want to call attention to the fact that by putting this in the law here, you are liable to burden the State with a great deal of trouble. There are hundreds of claims lying through the Territory and hundreds of them will be sold every year because the owners do not deem them valuable enough to pay the taxes. Any gentleman familiar with the present system of selling property for taxes can figure up if that system is perpetuated, what the cost is going to be to the State or county to sell these claims year after year and the fees and expenses of making the sale. That is a question of expediency. The other question is the utter injustice of this tax. It is double taxation in the most pronounced sense. What is the value of a mining claim? It is not the surface ground. It is not the rock and the dirt and the grass and the trees and the shrubs that grow there. It is its capacity for producing the precious or other metals and it can only be determined when they shall have been extracted. The price of mining claims has been fixed by the government with due regard to the expense of keeping up the land system and keeping

open for the exploration and exploitation by the citizen the mineral domain of the country. It has no relevancy whatever to the value of the ground. You are doing violation to every principle of taxation, by including this in this section, and if, as was suggested, your claim becomes a producer and you arrive at the value of the property and lay the taxing hand upon it, then you have accomplished all that you justly have a right to do. But you would still go further and tax the barren, bare surface ground which has no value whatever. It has not a value simply because you choose arbitrarily to say it is worth five dollars an acre. That is not it. It has no value by its situation, its location, its reference to other property. It has no value other than that as may be developed by its exploration and the money and wealth taken from it. For all these reasons it seems to me it is unwise and unjust and unnecessary. It is admitted that it will accomplish little. The revenue that it produces will be almost imperceptible. It will be eaten up entirely by the expenses of the collector in making the sales of property upon which the citizen will not pay. It will have an effect upon hundreds of poor prospectors, scattered throughout the country, who are clinging to their ewe lamb of a mining claim waiting, hoping against hope that something will turn up to the property near them or something in some way that will enable them to accomplish the ambitions of their lives. Hundreds of them to-day have not enough money to pay for the recording of a mining claim and I do not care how small the tax is, it is a burden upon men who ought to be fostered and encouraged and relieved as much as you can relieve them from such a burden.

Mr. EVANS (Weber). Is not that true of many farmers of this Territory?

Mr. VARIAN. I think there is no connection at all. That is an argument that is brought up on all occasions. It

will take too long to go into that discussion.

Mr. ALLEN. I would like to ask Mr. Evans—take it away from the railroad where men are holding coal claims, expecting that in the future the railroad will come, and at present they receive nothing from those mines, yet they are holding them, would not this work a hardship on them?

Mr. EVANS (Weber). They simply have to pay a tax at the rate of five dollars an acre.

Mr. ALLEN. Twenty dollars an acre.

Mr. EVANS (Weber). After those lands have been patented, yes. They pay nothing before they are patented.

Mr. ALLEN. I understand that, after they are patented they are still holding them, would not it work a hardship upon them. The railroad has not got there yet?

Mr. EVANS (Weber). Can the gentleman tell me of any poor men who are developing a coal mine? It is a well known fact that corporations simply monopolize those things, and they are the people who pay this tax.

Mr. ALLEN. But the justness of it—whether it is a poor man or rich man?

Mr. ELDREDGE. Mr. Chairman, while we are on the coal land proposition, suppose a man made an entry of 160 acres, the land is so situated that the coal dips into perhaps very likely every legal subdivision. In order to cut the vein of coal proper, he has to take the 160 acres, but at the same time there is quite a body of that that don't carry coal. Under this provision he would have to pay on the entire mine, what he paid the government, would he not?

Mr. EVANS (Weber). I think he would.

Mr. KEARNS. Mr. Chairman, I favor the amendment of Mr. Varian, and I have talked with my mining friends about it. This amendment of Mr. Varian refers to the proposition for the taxation of all improvements, of all ma-

chinery and of all net proceeds; I think that covers all; by going in and putting that taxation on the mining claims, it kills the industry in its infancy for the prospector. The gentleman asks where is there a poor man that is opening a coal bank. I can point one out to him here in the house, but I can point out a thousand that are improving mining claims of precious metals that from one end of the year to the other have never handled a dollar. They come into the city every day where I am and ask for a little prospecting stake, bacon and beans; he compares them to the people on a ranche, raising chickens and eggs, etc. The prospector never sees any of those luxuries. He would have to feed his chickens on mountain scenery and sun burnt weather. Are you going to put a tax on that man and sell out what he has put his life to accomplish—a claim that he has patented? If you do, gentlemen, you will strike down one of the grandest industries ever started in our new State, and I leave it to your generosity to relieve the poor prospector. Go into the cities and ask capital to go there and invest before the shaft is sunk, it will laugh at you.

Mr. CANNON. Mr. Chairman, in the first place, the committee having this matter in charge desired to do all they could to encourage mining. They did not have a hostile feeling toward mining. They believed in doing all they could to develop the enterprise and industry and at the same time they believed that mining should bear its just proportion of taxation and of the burdens of the State. I believe that the article as reported is more favorable to mining and miners than that which exists in all surrounding states. I will read the article in Colorado. (Reads.)

This you will see exempts them for ten years, except on the net product, and after that time it is subject to the will of the Legislature and may be changed from time to time. I have not found one mining man—and I have sub-

mitted this to quite a number of very prominent miners—who was favorable to this section as against the one reported by Utah.

Mr. KEARNS. Might I ask you a question? Have you met any of those prospectors out here that are not prominent miners and had their opinion on it?

Mr. CANNON. I will state that I met Mr. Kearns and Mr. Mackintosh of the committee on mining, and quite a number of other gentlemen; but the point about the prospector to my mind has not any effect for this reason, this does not provide for taxing mines when a man is prospecting. It only provides for taxing them after the ground has been patented, and certainly if it is worth patenting, because the price paid the government is probably only about one-fifth of that that is largely expended in developing mines before they are patented—if it is worth spending that on it, it is certainly worth paying the State a little to retain it. I would call your attention to Nevada, the state from which the gentleman comes who introduced this motion to strike out. (Reads.) That is, the gross proceeds are provided for in this state. I will call attention to that later.

Mr. VARIAN. Mr. Chairman, I want to call attention of the gentleman to the fact that the net proceeds have been taxed and those alone under the laws of Nevada.

Mr. CANNON. The constitution is as I stated, is it not?

Mr. VARIAN. They may have authorized it, but the net proceeds are what are taxed.

Mr. CANNON. The net proceeds are taxed quarterly, which is not so favorable as the way we propose to tax them. They may three-fourths of the year work it at a disadvantage and in the fourth quarter they may make a profit, and the way we provide is an annual tax, that is, they take the whole year and work it the entire year

and if there is a profit it is taxed, but in Nevada, it is taxed on each quarter. Montana is the one from which we copied ours, consequently it is practically the same. When we come to Wyoming we find the following provision. (Reads.) Now, if they paid twenty dollars an acre for coal land to the government, it stands to reason that it should be assessed at least twenty dollars per acre. Gentlemen, you will see from this that they tax in Wyoming on the gross product, while we tax on the net product. In Nevada, assuming what the gentleman says is true, they tax it quarterly instead of annually. So that there is a discrimination there in favor of Utah. I have in my hand a statement of the ore product of Utah, estimated by Wells, Fargo and Company. The gross product for 1890 was \$11,344,532. I will read the millions: 1891, twelve millions; 1892, eleven millions; 1893, seven millions; 1894, six millions; a total during the five years of \$48,992,226. If we were to tax this, gentlemen, it would amount to about three times that which we propose to tax. It is the way of taxing in Wyoming, and if we would follow their rule we would get a tax amounting to the amount that I have named. I think that under all the circumstances the provision in the Constitution as proposed is eminently just.

I would state that the objection was made by a prominent coal miner here that he thought \$20 an acre would be too much and also on the net revenue. I asked him this question, whether he would like to have the law made as it is in Wyoming, which is especially a coal producing state, and I do not think that he was willing to receive it in that form. If Mr. Sharp, who represents large coal interests, would be willing to receive it in that form, so far as I am concerned, I would vote to modify the section so far as coal land is concerned, and make it a tax on the gross product.

Mr. SHARP. Does not the Constitu-

tion of Wyoming provide that the acreage shall be taxed or in lieu thereof, that the gross product? You do not tax both. I think if you turn to that part of it you will find that it says that in lieu of a tax on the land there should be a tax paid on the gross product, and the fact is that the gross product is not taxed in Wyoming. It is only the land.

Mr. CANNON. I only know what the constitution is. I know not what the law is. If they can modify their law there we can do so here.

Mr. EVANS (Weber). Mr. Sharp, do you know what the tax is in Wyoming?

Mr. SHARP. No, I do not.

Mr. SQUIRES. I only want to call the attention of the committee to one point. An ordinary mining claim as located under recent laws is 1,500 feet by 600 feet; that would contain in the neighborhood of twenty-two and a half acres. Five dollars an acre of valuation would be \$112.50, and the tax on that at twelve mills would be \$1.35. Now, the gentleman from Salt Lake, when he was speaking to the question, pointed out to you how mining claims through the country would be sold for taxes because they could not afford to pay the taxes. Well, if there is a mining claim in this country that cannot afford to pay \$1.35 a year, I think it ought to be sold for taxes or for something else.

Mr. VARIAN. How much will it cost the State to collect that \$1.35?

Mr. SQUIRES. That I could not say.

Mr. EVANS (Weber). The State will have to tax improvements anyway, won't it?

Mr. SQUIRES. Yes.

Mr. EVANS (Weber). And they tax the net profits. They might just as well tax the surface.

Mr. SQUIRES. I call attention to another thing. There are a large number of patented claims in this Territory only 200 feet by 1,500, which would be only about one-third, and of course would only pay about a half a dollar per year.

Mr. EVANS (Weber). Isn't it also true, Mr. Squires, that school lands would only be taxed at about twenty-four cents an acre?

Mr. SQUIRES. That is all.

Mr. THURMAN. Mr. Chairman, if a mining claim is property, particularly after it has become the property of the miner, I cannot see any just reason why it should not be taxed. If it is not valuable enough for him to hold it, he will abandon it. But while he holds it, he owns it, and I cannot see how gentlemen can stand upon the floor of this Convention and insist that the farmer, who probably is a poor man and has a lot of waste land that he has not any way to irrigate and which is bound to lie idle, and he is waiting, hoping year after year that something will turn up, that he may get the benefit of that and derive some profit from it, he is compelled to pay taxes on it. There is not any question about that, is there, gentlemen? And if that be true, in the case of the farmer, why should there be any discrimination in the case of the miner? Now, the gentleman from Salt Lake, awhile ago, in an able speech, which convinced me (I voted with him although his proposed amendment failed) said nothing should escape taxation; that we should look to, it the sovereign power of the State, we should find all the property in the State that should be taxed, except such as is generally, by the policy of the State, made exempt from taxation, such as the property of the State, the property of municipal corporations, of all kinds, and property used exclusively for religious worship. Now, is it any hardship on the part of the miner to contribute his little mite to the taxes? I recognize mining as the chief industry of our Territory. I say it ought to be encouraged. It has been the policy to encourage it, but the time has come that every species of property within the State ought to bear its portion of the State burdens, and if that is not true—

if that is not done, the result will be that the property of some other man or some other class of the community will have to pay the expense of the State, the government incurred in protecting the property of that class which is not made taxable. There are strikes in the mining camps; there are riots by the very nature of the business in which the men are engaged; these things are likely to occur at any time, and the power of the State is demanded by the executive, to go forth at great expense and protect every man in the camp in his proper rights. Why should not they bear the little pitiful portion of the burden that has been suggested here by Mr. Squires, inasmuch as they do not have to pay it until it becomes absolutely their own property, and as long as they hold it as their own property, they ought to pay it just like any other man has to pay, otherwise we are making a discrimination here in favor of one class of the people as against another. I am in favor of the section as it stands.

Mr. HEYBOURNE. Mr. Chairman, I shall oppose the gentleman's amendment on my right. My aim and object, Mr. Chairman and gentlemen of this Convention, is to have the burden of taxation divided properly and equally among every class and upon all property that is liable for taxation. I think that it is proper and just and what we should labor to accomplish, as a body of delegates. I have had to meet some of the difficulties that have been referred to with regard to the exemption of a certain class of property that is now being spoken of within the last few years. And I find, Mr. Chairman and gentlemen, that there is an extended feeling and opinion in regard to this matter, that partiality has been exercised to a very considerable extent. I have in my mind at the present time, sir, a company who own coal lands that reach into the thousands of acres, and I believe, sir, that last year was the first

year that they were ever required to pay a tax. This same company when they had secured their patents—their government titles, were good enough to place notices around upon the surface of these claims, prohibiting even the grazing of cattle upon them. Now, in answer to the gentleman who has referred to the price of these lands and their value, I would say, as I understand it, that the assessed value of these coal lands after they are a certain distance from the railroad centers is but ten dollars an acre, and I think, sir, that these valuations should be retained and that the revenue officers of the coming State should see that they are taxed reasonably and properly in comparison with other properties that may be eligible. I have been asked frequently why it was that the farmer that would come out here and take up 160 acres of ground, secure a fence around it, perhaps not a drop of water within the vicinity, but expecting that in the future through the system of reservoirs or something of this kind he might be able to cultivate an acre or two of this ground—why it was that this property was taxable, when hundreds of thousands of acres of coal land and other similar claims were exempt, and I think that the gentleman who has been taking up this 160 acres of ground or 40 acres, as the case may be, with a view to make himself a little home, and a comfortable place to live in—a farm, should have just reasons of complaint. I have in mind, sir, now a company that purchased some coal lands in the county that I have the honor to represent, and I believe the figures are from about twenty to twenty-five dollars an acre. They had not secured the titles very long and I considered they got a very handsome interest for the funds they invested. Go and try and purchase some of them and they are almost beyond the reach of ordinary persons in wealth. Therefore, Mr. Chairman, I shall vote for the taxation of all classes

of property that are liable to taxation, in order that the burdens of government may be equally and fairly felt in the State.

Mr. SQUIRES. Mr. Chairman, I want to call attention to one other thing, which I presume is unnecessary, however; the prospector, the man who is looking for mineral, makes a location and as long as he holds that ground unpatented he is compelled to do a hundred dollars' worth of work every year except that for the last two years Congress has relieved him of that obligation; but under the law of Congress they are expected to work every year and do a hundred dollars' worth of work. Now, the rich man comes in and gets possession of the property and he immediately patents it and as soon as it is patented he is exempt from doing any assessment work on that ground; he locks it up; if there is anything in it the prospector cannot find it, because it does not belong to him; he cannot go into it to search; and these lands are bought up in blocks like that by rich corporations, represented by gentlemen of wealth, in order to prevent the prospector from finding anything within them. They are held for speculative purposes, and it is no burden I believe to the poor man to assess this tax upon the value of the patented property as indicated. The question was asked what it would cost the State to collect \$1.35 for one of those claims. I have been thinking that over since. It occurs to me that even if we assess the surface improvements it will be necessary for the assessor to visit the ground. And when he is there it won't take him long to ascertain the size of the claim and be able to fix the rate of taxation.

Mr. VARIAN. How about ground on which there are no improvements—on the tops of the mountains?

Mr. SQUIRES. They can be found right here in the land office without going anywhere else. An examination of the records here right in the land office

will furnish all that information, and I do not believe that it is going to cost so much as the gentleman thinks to collect this tax.

Mr. ELDERIDGE. Mr. Chairman, I favor the motion of the gentleman from Salt Lake, not wholly upon the ground that has been set forth here, but upon this ground, as I believe it is fully covered in the former section. (Reads). Now, it appears to me that that covers the entire ground just as fully as though we went on and continued to enumerate what we have attempted to do here. We have gone on to state that mines and mining claims, both placer and rock in place, containing and bearing gold, copper, coal, lead, and other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid. Now, why should not we go on and say that all horses and mules that are capable of performing work, that cows that will give milk, and so on, and enumerate all this class of property, shall be taxed at the price paid?

Mr. SQUIRES. Shall I answer the gentleman the question? I judge from the deliberations of the committee that it is because the mines and mining interests of the Territory have heretofore been exempt from taxation, while the horses and the cattle have not.

Mr. ELDERIDGE. Because what has been done—this provides simply what it does provide for, and it says, all classes of property.

Mr. EVANS (Weber). Mr. Eldredge, I think perhaps my friend, Mr. Squires, may have misapprehended the purpose of the committee; the purpose is to prevent the assessor from fixing a value on the Ontario mine, or the Daly mine, or the Silver King, or the Bullion Beck; without such a provision as that, all the assessor would have to do would be to go to the mining claim and say that the mine was worth so much money and assess it just as he would a horse or any other property. Of

course that would be wholly speculative, and the purpose of the committee was to fix some value on the surface improvements and then tax the net profits as well as the improvements.

Mr. ELDREDGE. You might just as well say then, because he paid five hundred dollars for a horse a year ago or five years ago that to-day he should be assessed for five hundred dollars.

Mr. EVANS (Weber). Would you have the assessor go and value these mines at their actual value and assess them in that way?

Mr. ELDREDGE. Then you would have to change section 3.

Mr. EVANS (Weber). If you would, you could cripple the mining industry so that it would not be worth engaging in.

Mr. ELDREDGE. No exceptions are made, except one thing, it says provided a reduction of debts from credits may be authorized.

Mr. SQUIRES. This section creates an exception.

Mr. ELDREDGE. Then it would be in conflict with the former one. So that after reviewing the whole measures of the article over, I shall support the proposition to strike out down to the word as indicated, "all."

Mr. HAMMOND. Mr. Chairman, I have listened with a good deal of attention to all of the arguments and discussion bearing upon this question and I have not discovered anything that affects a case at San Juan.

Mr. SQUIRES. Got some mines down there?

Mr. HAMMOND. Yes, sir; two years ago this past winter, as you all remember, we had a gold craze, a book down there—and miners came in from all sections and took up and located claims for eighty miles up and down the river from where I live. They did not stop at our farms and our orchards and our houses and lands, but located every foot of ground on the borders of

the river. Did not take in the sand rock bluffs above the town there, but otherwise than that, they located every inch and foot—my house where I lived, my little orchard; my lucern patch, corn patch, is all under placer claims, and I am assessed or supposed to be assessed; I am part owner in those claims, too; and I am assessed on my lucern patch and on everything that is on top of the ground. Now, this looks to me like double taxation.

The question being taken on the motion of Mr. Varian, the committee divided and by a vote of 18 ayes (noes not counted) the motion was rejected.

The committee then rose and reported as follows:

The committee of the whole has had under consideration the article on labor and arbitration, has completed the same, and reported it for third reading. They also have proceeded with the article on taxation and revenue to and including section 4.

The committee on accounts and expenses reported as follows:

Mr. President and gentlemen of the Convention:

We, your committee on accounts and expenses, beg leave to report the following:

There has been expended up to and including this date as per accounts on file, the sum of twenty-five thousand, eight hundred and eleven and seventy-two hundredths dollars (\$25,811.72), leaving a balance of four thousand, one hundred and eighty-eight and twenty-eight hundredths dollars (\$4,188.28). The foregoing includes the salaries of members and officers and all expenses up to date.

We recommend that the members be paid up to and including Tuesday, the forty-fourth day, and that the balance be held for the payment of the officers of the Convention in full, the printing of the minutes, the printing of 1,000 copies of the Constitution of the State of Utah, and any other contingent expenses. The remainder should be divided pro rata among the members of the Convention.

A. C. LUND,
Chairman.

Report was adopted.

The Convention, then, at 5:55 o'clock p. m., adjourned.

FORTY-FIFTH DAY.

WEDNESDAY, April 17, 1895.

Prayer was offered by Delegate Maughan, of Cache.

Journal of the forty-fourth day's session was read and approved.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to a vote of the people:

File No. 319, signed by John H. Hougaard and 250 others, from Manti, by C. P. Larsen, of Sanpete, by request.

File No. 320, signed by D. Hirschi and 50 others, from Rockville, by Snow, of Washington.

File No. 321, signed by W. T. Kyte and 65 others, from Bingham, by Squires, of Salt Lake.

File No. 322, signed by J. H. Ball and 70 others, from Coalville, by Kearns, of Summit.

File No. 323, signed by R. A. Deal and 370 others, from Springville, by Boyer, of Utah.

File No. 324, signed by J. L. Holgreen and 50 others, from Richmond, by Kerr, of Cache.

File No. 325, signed by Robert C. Knell and 11 others, from Pinto, by Ivins, of Washington.

File No. 326, signed by Francis Prince and 53 others, from New Harmony, by Ivins, of Washington.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 327, signed by Geo. R. Hill and 250 others, from Springville, by Boyer, of Utah.

File No. 328, signed by A. D. Bower and 66 others, from Summit, by Chidester, of Garfield.

Ordered filed.

Mr. SQUIRES. I received a communi-

cation with that petition (File No. 321) which I would like to read, if I may.
(Read as follows):

Bingham Canyon, Utah,
April 15, 1895.

Col. G. P. Squires, Salt Lake City:

Dear Sir: Enclosed some more names. Hope you will be able to convince those fellows that the insertion of that clause will damn either or both parties.

(Signed) B. B. QUINN.

Mr. IVINS. I would like to ask Colonel Squires if he offers this as part of his remarks?

Mr. SQUIRES. I offer it, sir, as a part of that petition.

Mr. EVANS (Weber). Mr. President, I move that that petition be returned to Mr. Squires as being an insult to this Convention.

The motion was agreed to.

The committee on mines and mining reported as follows:

MR. PRESIDENT:

Your committee on mines and mining herewith respectfully present a proposed article for insertion in the Constitution.

KEARNS, Chairman.

Mr. EVANS (Utah). Mr. President, I desire to ask unanimous consent to offer a motion that we reconsider the question upon which we passed last night, in regard to the disposition of the balance of the money on hand, first asking unanimous consent to offer that motion.

The PRESIDENT. Gentlemen, are there any objections?

Mr. EVANS (Utah). I offer that as a motion, to reconsider that matter.

The motion was agreed to.

Mr. EVANS (Utah). Mr. President, I now move you that the report of the committee be received, placed on file, and that the recommendations be not adopted.

Mr. CANNON. Mr. President, I notice that the chairman of the committee is absent, and I think it would be better to postpone it until he is present. For

that reason I move to lay this motion on the table.

The motion of Mr. Cannon was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Evans of Utah in the chair, and proceeded to the consideration of the article on revenue and taxation.

COMMITTEE OF THE WHOLE.

Section 5 was read.

Mr. CHIDESTER. Mr. Chairman, I move to strike out section 5.

Mr. IVINS. Mr. Chairman, had a motion to strike out section 5 not been made by some other member of the committee I should have made that motion myself, believing that this section is a very dangerous and improper one to be incorporated in this Constitution, and I desire to ask the indulgence of the committee for a few moments while I shall discuss it, because it seems to me that no question has yet come before this committee or the Convention at large which is fraught, or will be with results of more importance, either for good or for evil, as will be the incorporation of a section similar to this in the Constitution. It seems to be a very innocent provision superficially, but I am persuaded, gentlemen, that there is underlying the principle that is involved in this proposition one that is just as important to the people of this Territory and the coming State, one which, if it shall be realized, will result in just as great disaster to this State as did the demonetization of silver to the whole nation, when that was insidiously passed through Congress at the time the act was approved. In discussing the question that you may understand fully my position upon it, it will be necessary for me to review briefly the theory of taxation as it has existed in this Territory and in this nation, and in other states and nations. The claim is that this provision is designed to prevent

unjust taxation. That it is designed to prevent double taxation, and that by its incorporation, it will not be possible in the future for the State to twice tax the same property or the values which are represented by the same property.

Now, gentlemen, I wish in the first place to say that there is no just system of taxation. Many different systems have been tried in this and other nations, and there is not one among them all that is not subject to criticism and to serious objection. Four methods of producing revenue have been tried at different epochs in the world's history. First, voluntary contribution; second, tax upon capital or the accumulation of labor; third, a tax upon revenue, and fourth, a tax upon expenditures. In the first place, we take it for granted that properly it is the duty of every citizen to contribute to the support of the State and its revenue in proportion to the ability that he has to do so. That being the case, we all recognize the fact that all men receive equal protection under the law. The law is not greater for the protection of the rich, than it is for the protection of the poor. Upon the contrary, the more of this world's goods a man accumulates, the better able he is to take care of himself. Wealth is better able to protect itself than poverty is, and so it becomes just as necessary for the poor man to contribute for the expense of government as it does for the rich man, in proportion to that which he has. The system adopted in this Territory in the past has been to provide revenues by a taxation upon capital or the accumulation of labor. This seems to be a very just system of taxation, and yet when we come to consider it, this question must naturally present itself to our minds, if a man who is possessed of a large revenue shall spend it all in the gratification of his own desires, his own pleasures, his own wants, and he accumu-

lates nothing and saves no surplus, he is required under our law to pay no taxes. So it occurs to us if you have a right to use all of your income for your own gratification, why should you, if you save and accumulate a part of that income, lose your right to any portion of it, because of this? and yet that is precisely the conditions which our present system of taxation imposes upon us. On the other hand, if we tax revenue, the question arises, why should a tax be placed upon industry, and idleness go scot free, for a man may labor early and late and through his industry, his energy, and his ability, he may create a large income, while another—

Mr. CANNON. Mr. Chairman, I arise to a point of order.

The CHAIRMAN. The gentleman will take his seat.

Mr. CANNON. My point of order is that there is nothing in this provision which provides that mortgages are not to be taxed; the gentleman is not speaking to the question.

Mr. IVINS. If the gentleman will just let me alone I will get around to the question, and I will try and satisfy him fully before I am through.

The CHAIRMAN. The gentleman may proceed.

Mr. IVINS. I am coming to the gentleman a little later on. The idea, gentlemen, is that an unjust system of taxation is designed by this article. I have been in the committee, was a member of the committee where it was adopted and protested against it there, just as I protest against it here, and gave notice that I should fight it, and that is what I now propose to do. Now, then, this system of taxation of revenues is subject to just as many objections as the other system of taxation. That revenue may be accumulated by voluntary contributions, we do not for a moment suppose could be successfully done, and yet in many of the older states that system has pre-

valled and prevailed successfully. Men were allowed to assess themselves and contribute voluntarily to the support of government. In our Territory in the past—and probably the same will exist in the future, we expect to derive from the accumulations or savings of labor, from capital, from property accumulations. If this is the case, I take it that no one will dispute with me the fact that all the accumulations of labor should be alike subject to taxation, that there should be no exemption, that all property which is used for the benefit of man, all property which is productive, particularly all property except that which is devoted to charitable uses, should be subject to taxation, in order to provide revenue for the State.

The revenue of this State, if it shall be admitted into the Union, cannot be expected to be less than double that which the revenue of the Territory has been. I have been engaged for years of my life in the assessment and collection of taxes and therefore believe I have a right to speak intelligently upon this question. Previous to 1892 the laws of Utah provided that all property should be subject to taxation. They provided distinctly that money loaned, on hand, or on deposit should be taxed as other property.

At the session of the Legislature which was held in 1892, an addition was made to the exemption law, by which it was provided that all notes secured by mortgages upon real or personal property should be exempt from taxation. That was the first onslaught made by the moneyed interests of this Territory, by which they thought to free themselves from any part in the burdens of taxation which the people bore. Following out the lines upon which this battle has been fought, ever since the republican party was founded there has been, gentlemen, a steady and determined effort made by money brokers, by bondholders, by bankers,

not only in the nation but in this Territory as well, to shift the burdens of taxation off from their shoulders and place them upon the backs of the people, and so I say in 1892 this law was passed exempting money from taxation, for that is what it means. Men will dispute me in this and say it refers only to mortgages. We use the word mortgages in section 5 here. Do you know what it means? It means that all money shall be exempt from taxation, for if money thus secured by mortgage on real or personal property is exempt, money loaners will see to it that all of their loans are secured by mortgages. Now, let me come to the practical workings of this law. In the county in which I was assessor and collector at this time, I had thousands and thousands of dollars of money upon the assessment roll. Men were paying taxes on it just as they should have done. But what was the result? As soon as this law, in 1892 went into operation, those men immediately secured their loans by mortgages; it did not matter, perhaps, the value of the property mortgaged was not one-tenth of the loan negotiated, but from the very fact of its having been secured by a mortgage on a corner lot or upon a few head of horses or cattle, the man claimed an exemption under the law and I was of necessity obliged to strike off from the assessment roll that money, and those men have never paid a dollar of taxes from that day to this.

Gentlemen, there are instances in my county where men have accumulated sufficient means with which to retire from active life and live upon the interest of their money. It is all loaned, it is all secured by mortgages. The laws under which the mortgage is loaned give the broker the greatest security and protection. He cannot possibly be subject to loss, because his mortgages are sufficient. He demands about three dollars to one security; he is protected under the law; he invariably collects his interest; he enjoys every protection

that any other class of citizens does and still he is not paying a dollar of taxes. In one county of this Territory alone, under the operations of this law, more than one hundred thousand dollars were stricken off from the assessment roll, and that was not one of these central counties either; it was an outlying county; more than a \$100,000 of money secured exemption from taxation under the operations of this law. Well, we came up here in 1894 and tried to change it—have it repealed, but we did not succeed. We did not succeed and so now that this Constitutional Convention is in session, gentlemen propose to incorporate in the Constitution a section providing that a tax upon mortgages secured on either real or personal property shall never be levied, unless a reduction equal to the amount of such mortgage shall be made in the assessed value of the property covered thereby. Why, the gentleman says, this does not provide that money secured by mortgages shall not be taxed. It simply provides that if it is taxed, you shall deduct the value from the property, or vice versa. It means simply this, that if that section is incorporated in the Constitution, the present law under which money is exempt from taxation will never be changed, because there would be no purpose in changing it. The State could possibly gain nothing by changing it, from the fact that if it should pass a law providing for the taxation of the money, the exemption would be made from the property and consequently there could possibly be no increase in the revenue. Now, in the first place, this law is a discrimination. If you have money on deposit, if you have money loaned on a plain promissory note, the law requires that you shall pay a tax on it. But if that same note is secured by a mortgage, you are exempt from taxation. Is there any justice in the proposition? I have never been able to see it. In our committee,

where this question has been under discussion, men have been called in representing these loan and trust companies here in Salt Lake City. They have told us what a hardship it would work to their companies if there should be any change in this law. They have threatened that if we shall change the law they will increase the interest and they will make the borrower pay for it in the long run anyhow.

What are the actual facts in regard to these loan and trust companies? Why, in cross questioning them, we found that their investments are very profitable ones; that they are paying dividends, ranging all the way from eight to twelve per cent per annum, compounded semi-annually, so that they are not suffering. They send their agents out into every county in this Territory; they have been away down in Dixie, telling the people of the good investments these loan and trust companies were and soliciting us to put our money into them, not because of any beneficent results, but because they told us they would bring bigger returns than any other investment we could make. Those are the facts. I am a witness of it. They have been to me and solicited that I should invest in these things. There are, gentlemen, in this city alone, six or eight loan and trust companies. They have now loaned and secured by mortgages two million dollars in round numbers. Those loan and trust companies are not paying one dollar of taxes on that money, notwithstanding the fact that they are making a profit, as I have said, of from eight to twelve per cent on their loans. I have investigated this question somewhat carefully. Now, calculate for a moment, and you will find that the State in this one instance alone is deprived of twenty thousand dollars in revenue. I ask you what justice there is in it? And I want to call your attention to the fact that upon every dollar of that money

that you exempt from taxation you simply increase the taxes of those who do pay to that extent, because the revenue must be raised. We must have just so much money to meet the demands of government, and if you exempt money from taxation, you must add additional taxation to other classes of property, in order to procure that revenue. This does not refer to loans made by individuals and by local banks in this city and in this Territory, but only to the loans that have been negotiated by these loan and trust companies.

But the gentleman says, Zion's Loan and Trust Company lends all of its money to build homes in this city, and if you tax the home and tax the money, that is double taxation. I want to ask you if both the home and the money is not productive property? The man borrows from Zion's Loan and Trust Company five thousand dollars with which to build a home. He pays them an interest upon that five thousand dollars. It is certainly productive property, to Zion's Loan and Trust Company, from the fact that they are paying good round dividends on it and have been. Now, what about the man that builds the home? He may either rent it to some one else or occupy it himself. In either case it also becomes productive property for if he lives in it himself, he is exempt from paying the rent that he would necessarily pay should he take a house that belonged to another man, and if he rent it to another, it immediately becomes productive property and ought to be subject to taxation. The only difference between that man who borrows the money to build a house to live in and me is that I have, through years of toil, saved up enough money to build a house and put it into that residence. I receive no more benefit or profit from it than does the man that borrows the money to do it, and I should no more be subject to taxation. If it is just to

exempt him from taxation because he borrows money to build his house, why should he be taxed who has been more prudent and saves sufficient money to build a house? Both classes of property are productive. Both ought to be subject to taxation.

Now, let me call your attention to something that will transpire if this clause is left in the Constitution. Men have property, they want money, they want it for speculative purposes. The majority of money borrowers do not borrow from necessity, some do. The majority borrow for speculative purposes. Now, he wants money to invest outside of this State. He borrows it and gives a mortgage upon his property. The result is that you must either exempt that property from taxation because it is mortgaged, or else you must exempt the money of the broker from taxation, and thus the revenues of the State are depleted and the money was not used to build that house at all. I have in mind now an instance in my own county that will illustrate this matter. A man there with one of the most productive and best pieces of real estate in our county for speculative purposes borrows five thousand dollars upon it. The man who loans him the money is a resident in our county. He is getting one per cent. on that money. The money was not borrowed to either improve or build up that piece of real estate. It was there before. And because this man wishes to take off into Arizona five thousand dollars and use it there for speculative purposes and places a mortgage upon that piece of property which is in Utah, are you going to exempt it from taxation? I can tell you that the revenues of the State will be depleted—the burdens of taxation upon the few who cannot escape it will become grievous to be borne, if that section shall be left as it now stands in the Constitution. Another thing, men are prompted to withdraw from all other industries.

They are prompted to withdraw from the investment of capital in legitimate enterprises and loan it and the result is a multiplicity of money lenders, the disadvantage of all other investments, from the fact that their money loaned brings them just about as good interest and it is exempt from taxation, and that will be quite an item in the State which is to come—quite an item, and I believe that in order that the resources of the country may be properly developed, it would be better if that section should be stricken out. I am not so extreme that I would desire to see placed in this Constitution a law providing that money should be taxed. I am not so extreme as to ask that a law similar to the California mortgage law be incorporated here, and yet I think it would be a good thing. I want to leave this to future legislation at least, and I submit, gentlemen, that if you will hunt all of the constitutions that have ever been framed and examine them all you cannot find a parallel provision upon the part of the money power to compare with this thing here. Now, let me call your attention to another fact, in the campaign of 1892 this was made a living, burning issue. Men went over this Territory from one end to the other and denounced in the strongest kind of terms the democratic Legislature which exempted money from taxation. Don't you men from Sanpete know that it was used there and don't you know that it was largely on account of that that Mr. Johnson was sent to the last Legislature. And I want to say to Mr. Johnson's credit that after he got there he worked like a man to have that law repealed and to keep the pledge that he had made to his constituents. I wish I could say as much of the chairman of this committee on revenue and taxation. He stumped Salt Lake County from end to end, no man was stronger in his denunciation of this law—no man was more ready—

Mr. CANNON. Mr. Chairman, I would ask the gentleman whether he heard me deliver a speech?

Mr. IVINS. I will answer that, gentlemen, by saying that I was a member of the last Legislature, and one of the first men to come to me and ask that I should use my influence to have that law repealed and to say that it was an unjust and discriminating law, and to tell me that he had stumped this county, was the gentleman himself. [Laughter and applause.]

Mr. CANNON. I would ask the gentleman—I only want to state my position now fully.

Mr. IVINS. I object to his stating his position at all. He can do it after I get through; he can have plenty of time. If he wants to ask me a question, I will try and answer it. Now, these, gentlemen, are the facts. I want to call your attention to it, because I believe there is a design in this thing that ought to be uncovered and that the mask ought to be torn off. Another thing I want to call your attention to is that when this committee on revenue and taxation first met—the very day of their session; the chairman gave notice that he should propose to incorporate in this Constitution the California law, which provides for the taxation of mortgages. I thought it was because of the fear that I would anticipate him and make such a motion, because that is what I intended to do, but it passed along. The chamber of commerce met. These boomers met and they sent a protest down there and said, "If you tax money, we will raise our interest and make the people pay it." And they appeared before our committee, and I want to say that every one of them that appeared in his cross-examination made my position stronger and stronger, and I do not believe there is any other design in it, except that taxation may be evaded. So imagine my surprise when instead of the California law which provides for the taxation of

mortgages, that this section which proposes to everlastingly exempt them from taxation, was inserted instead. Those are the conditions that have existed, gentlemen, in regard to this matter. I do not believe that it will result in any increase of interest to the people who are borrowers. I want to tell you that the credit and reputation of the people of Utah is good in the world. All that capital is waiting for is that Utah shall be admitted to statehood and give evidence of her good intentions and capital will flow in here to a degree that any effort that might be made upon the part of the local money lenders to increase the rate of interest will be futile, and now is the time, if ever in the history of the Territory we intend to do it, to establish this one ruling that money in connection with other classes of property shall bear its proportion of the burdens of the expense of this new State. I am opposed to this section. I hope that it will not be retained here. There are many other things that might be said in opposition to it, many other sophistries that might be exploded in discussing it. It is wrong in principle; as I have said, it has no parallel in all the constitutions of the land—not one; let us strike it out. It ought to be stricken out. This question of the taxation of money and other property ought to be left to future Legislatures, who may deliberately and carefully consider this matter, and I am perfectly willing to trust to the good judgment of the people of this Territory, with the assurance that another Legislature will not meet and adjourn until money will be made to bear its equal part of the burdens of this government, just as it ought to bear them. You cannot call this a political question, gentlemen. You cannot say that I am standing up here advocating democratic doctrine, because it was a democratic Legislature that passed the law exempting money from taxation, and I placed myself in antagonism to my own place when I

fought for its repeal. I stand upon the very same ground to-day. The theory is wrong. There can be but one theory of taxation that will be in any degree just and that is of all available productive property, real estate, money, stocks, bonds, all that is produced by the citizen, shall bear its equal proportion of taxation in this new State. That is all I ask. I do not ask any exemption for myself. Neither do I propose to consent to the exemption of these loan and trust companies. This brokerage system that is making itself fat at the expense of the people now ask us to provide means by which it may continue to do so.

Mr. SQUIRES. I would like to ask Mr. Ivins a question. You favor, as I understand, the striking out of section 5?

Mr. IVINS. I do.

Mr. SQUIRES. I would ask you then if under the provision of section 2 it would not be obligatory upon the State to tax mortgages? If we strike this out so as to leave the matter as you suggest, to the Legislature, we do not leave it to the Legislature, but we provide that mortgages shall be taxed under the Constitution, is that what you wish?

Mr. IVINS. The gentleman has asked the question and answered it himself. I sincerely trust, gentlemen, that the interpretation that he gives to this section is correct. That is all I can say. If there is any doubt about it, I hope the Legislature will confirm it and provide that mortgages shall be taxed, and I hope that he construes that properly, and that if we strike this out they will be taxed.

Mr. SQUIRES. That is what I wanted to know.

Mr. IVINS. I do not think it is as plain as it might be, but I trust that his interpretation of that section is correct, because that is the way I think it ought to be.

Mr. GOODWIN. Mr. Chairman, these

are queer times that we are in. I thought when the salary stopped, members would simply make a statement.

Mr. THURMAN. We reconsidered that.

Mr. GOODWIN. Oh, I beg your pardon, I am liable to take all the forenoon now. Yesterday we had an entertainment here, in the interests of the poor working man. We heard gentlemen assert that it would be a fearful thing to make convicts work in the penitentiary because it would create competition with the poor. They did not seem to think that if these men in the penitentiary did not work the poor would have to feed and clothe them all the same. That is, the trend of the argument was that while the ordinary man must rustle for a living, if he was only bright enough to steal something or rob somebody or commit a murder, then he is exempt from labor and it was the duty of the State to clothe him well and feed him, even if it did establish a school of crime out at the penitentiary where a young man sent there for his first offense would by three years' schooling graduate a hardened criminal through association with those more accomplished in the profession which he had thus chosen than he was when he went there.

Again, we had many a dissertation on the wrong of permitting railroad companies, for instance, to keep or send to other railroad companies a blacklist. That was to keep poor men out of employment. The fact that if a poor man, able to employ four or five men, at last found that all the receipts of his industry did not pay the men at the rate they demanded and he had to make a reduction and they struck and boycotted him, advertised it through the press and through the telegraph that whatever he produced should be boycotted, that was not mentioned. It was all right. This morning, we have a dissertation on the wrongs that money does in the world. I endorse

that heartily personally, but there are certain principles that are at stake. There are very few homes in this town that are not mortgaged. The mortgages are secured at a little lower rate of interest than they would be except that the law protects the matter and says no property shall be twice taxed. Now, if a man has a lot worth five thousand dollars and he borrows three thousand dollars and puts it in a house on that lot, it makes the assessment roll at the next spring show eight thousand dollars that he has to pay taxes on. He only owns five. He has to pay taxes on eight. Now, if we go back to the man who loaned that money and tax that three thousand dollars over again, it makes double taxation, does it not? A dozen supreme courts have decided that it does. There can be no escape from it. But according to the argument of the gentleman who just addressed the committee, the man who pays the tax on that extra three thousand is served right for not owning it himself. Why, he would have to pay it if he owned it. That is all there is to this article. It is double taxation to tax the man who borrows money and then tax the loaner, and the hardship does not come on the trust company or on the capitalist. If they loan money at seven per cent on the mortgage and they have to pay taxes on that mortgage themselves, they charge eight per cent. That is all there is to it, and the man that borrows the money pays it all. Now, I would vote to have the personal property in this stricken out, because that gives chance for fraud. It is like taking a promissory note. Where that has been tried the man that holds those promissory notes simply transfers them to his clerk, and when the assessor comes around he holds up his hand and swears he hasn't any. But a mortgage is a thing of record. Of course there can be now and then a condition, as was stated by the gentleman. A man

can mortgage property that is fully paid for, and that he does not wish to make improvements on, save the money and speculate in another state and thus evade taxation in this State. That money would be subject to taxation in the state he goes to in whatever form he puts it. The article is exactly right, and to incorporate it into the Constitution will save no end of just such oratory as we have been having this morning through every Legislature for years to come. One year they tax mortgages and the next year they will throw it off, until by final adjudication it is decided as courts have in plenty of other states, that it is double taxation and therefore illegal. I would vote for striking out personal property. The rest of the section I would leave just as it is and for the manifest reason that unless such a provision is in the Constitution or in the laws it leaves money to be taxed twice, which is contrary to the spirit of our government, contrary to justice, and while I have very little respect for men that have money to loan, at the same time, under our benign laws they are not criminals. They are entitled to as much protection as though they wanted to borrow. I speak of this particularly because I have seen it tried over and over and through California and Nevada, until public opinion and the sentiment of the state and the laws of the state finally harmonized. Just try it as it is, except I think personal property ought to be stricken out.

Mr. CHIDESTER. Mr. Chairman, some of the reasons that have been assigned by the gentleman who last spoke for opposing the motion to strike out is the reason why I want this article stricken out. Now, in the first place, according to the terms of this section itself, it concedes to a certain extent that mortgages should be taxed. That is a proposition that the friends of this section will make, and that the price of the mortgage should be taken out of

the property that is mortgaged by the mortgagee. Now, I believe that all property in the district should be taxed. I believe that because a homestead secures a mortgage is no reason why that homestead should not be taxed. Now, I live most to the Arizona line, and men borrow money and invest in stock and take it over into Arizona. That is a speculative scheme. They give a mortgage on their homesteads and according to this, value of that mortgage would be deducted out of the homestead. Now, they claim that the man who loaned the money would be taxed and for that reason that the homestead should not be taxed, and that the man who borrows the money gets the advantage of a lower rate of interest. Now, I want to say to you, gentlemen, that that is not the fact. I have made out hundreds of trust deeds in the last few years for men who have been loaning money, and the argument is this every time, and has been from the beginning, that the demand for money is what governs the rate of interest. It does it every time, and when money is plenty, interest is low, and when money is hard to get hold of, and lots of men are after money to borrow it, they take advantage of that and they raise the interest. That is my experience in regard to that. And there is another point that weighs considerably with me, and that is, that this section proposes to settle a question that ought not to be settled by this Convention. In my opinion it should be left open and we can fully trust the Legislature to handle this matter. Suppose that we were to incorporate this section as it stands, it would make it binding from time to time on to deduct the price of the mortgage out of the valuation of the real estate. Suppose that we should find that to be impracticable and we should find that it should not exist, we could not change it. The Legislature's hands would be tied and they would have to pass it by. We know now that the Legislature has

been handling this matter or endeavoring to handle it and it has been a question that they themselves could not settle satisfactorily to the people, and for us, with the limited time that we have had here to study this matter, to undertake to settle it, in my opinion would be a grand mistake. I see no reason why this should be considered double taxation. As has already been stated, if a man borrows money to build a house and he rents that house out he is receiving an income from that house. Why should not he pay a tax upon it? Why should not the man who loans money at five per cent. a month interest—that is done in this Territory, that is done in my county, and that man today, under the present system, is not paying as much taxes as I do, and I have no money to loan. Now, it is conceded that the man that loans the money, he receives interest and should be taxed according to this section, but it seeks to excuse the man from paying taxes who has built a house and is renting it out and receiving the interest on the money that he has invested from paying the tax. I say that it should all be taxed and it should be made equal.

Mr. PIERCE. Mr. Chairman, I am in favor of the motion made by the gentleman from Washington County. I think that the argument made by the gentleman is one of the strongest arguments that has been made in this Convention, and that the strictures placed upon him by other gentlemen upon this floor are without foundation.

Mr. GOODWIN. Mr. Chairman, I arise to a question of personal privilege. What about the strictures? What strictures do you refer to?

Mr. PIERCE. The matters that have been said that the Convention all know.

Mr. GOODWIN. If I said anything disrespectful of the gentleman or—

Mr. PIERCE. I withdraw that expression then. I will say the answer to it—

Mr. IVINS. I wish to say that I take

no exception at all to anything that has been said. I am here to be hit just as hard as I hit others.

Mr. GOODWIN. Perhaps the gentleman from Salt Lake is more used to strictures than others. [Laughter.]

Mr. PIERCE. Mr. Chairman, I would like to call the attention of the Convention to section 2. If this section 5 goes out of the Constitution, then we have only section 2 to fall back upon in defining what property shall be taxed. That will make it absolutely necessary under the Constitution to tax mortgages. While I for one do not say that we should at all times tax mortgages, I do say it should be left open to the Legislature to tax mortgages if they desire to do so, and if it seems wise and best that it should be done. My own idea is to strike out section 5 and amend section 2 so as read as follows: "All property in the State not exempt under the laws of the United States or of this State," and leave it that way so that the Legislature can legislate as to whether mortgages shall be taxed or not. Now, upon the main question. I was in the Legislature that passed the law of 1892 exempting mortgages from taxation. I am in favor of exempting mortgages from taxation and was at that time, in so far as it brings money from abroad into the Territory, but as the gentleman from Washington County has well argued, that its not what the law is accomplishing. Why, if it brings into this Territory say one hundred thousand dollars of foreign capital to develop the resources of this Territory, it retires and places beyond taxation, as he has demonstrated, more than twice that amount that cannot be reached by the assessors of the various counties.

I say to you, gentlemen, that it is a matter that ought to be left entirely to the Legislature. There may be a time, for instance now, when you should not tax mortgages, but should do everything to induce capital to come into the Territory, but when we build up

a wealthy rich State in the future, then, sir, we should tax all property that is within the Territory. I believe that taxation should be uniform. If a man owns his house, let him pay taxes on it. If another man owns property in money, and bonds, let him pay taxes upon the money and bonds that he owns. I am in favor of striking this section out provided that section 2 be amended by striking out the words, "under this Constitution," and inserting the words, "of this State."

Mr. EVANS (Weber). Mr. Chairman, as I was a member of the committee on taxation and revenue, and also unfortunate enough to be a member of the Legislature of 1892, I desire to make a few remarks on this question. I was somewhat astonished at my colleague, Mr. Cannon, who asked to close this debate. It would seem that having the affirmative, he ought to open it so that the members of the Convention would know what his position is, and assuming that he will not open and that he will close the debate, I shall undertake in the course of my remarks briefly to apprehend the position which he shall take. I want to explain to this Convention, gentlemen, just how the law of 1892 was passed, and it is only a short story. At that time we found the condition of the law such that foreign mortgages were not taxed but domestic mortgages were. We had a report of the board of equalization, of which the Honorable Frank J. Cannon was a member, in which report it was suggested that the amount of money which was paid to the various county recorders for the abstracts of titles and mortgages amounted to as much as the revenue actually received from domestic mortgages, which were taxed, or very nearly so, there was only a few dollars difference. We found that as the law then stood it was a discrimination between foreign money and domestic money.

People who owned money in the Ter-

ritory had a tendency to leave the Territory and go outside and loan it in order that their mortgages might be exempt from taxation, and in view of these considerations, the Legislature largely upon that report voted to place mortgages upon the exemption list. The Legislature then was democratic. There were no republicans in it at all. There were some liberals who are now republicans. But, however that may be, gentlemen—and even if I thought I were wrong in the position which I took then, but I shall not say that I was, because I think I would do the same thing again—but if I were wrong, I would not be afraid or ashamed to correct the mistake. But here is a different proposition. Right in the organic law of our new State we are confronted with a proposition that mortgages shall never be taxed except when the value of the mortgage is deducted from the amount of the property. Gentlemen, let me remind you that if this matter go into the organic law of the new State, we will never be able to repeal it, we never can do it. The money power which will seek to retain it there will be sufficient to engraft it upon our organic law for all time to come. But gentlemen may say that the Legislature might tax mortgages with the provision as it now stands. It is true. But if mortgages be taxed with the provision as it now stands, there must be a like value deducted from the value of the property. Suppose that condition of things came about and suppose the mortgage is taxed and the property owner relieved of a like amount, what will be the result? Is it not as plain as the handwriting upon the wall that thousands of spurious mortgages will be placed upon the property of the citizen for the purpose of evading taxation or reducing the amount of taxes upon the property of the owner. What is there to prevent it? Suppose we take the mortgage; if we do that, we must deduct the amount from the value of the

property. What is there then to prevent any individual from securing a mortgage and placing it upon record for the purpose of evading taxation? Do not we know that men are prone to evade taxation whenever an opportunity affords itself? It seems to be a legitimate thing among some people to do that by which taxation might be evaded. And this is throwing the door wide open to relieve pretty much all the real estate in the new State from the burdens of taxation. There is another evil that will come from it, and gentlemen it is the most serious evil that can be suggested, and that is this: Suppose the section goes into the organic law as it is proposed, is there any one who would deceive himself upon the proposition that mortgages would not be taxed? It is inevitable that the property will always be taxed and the mortgage never will be. Then, assuming that to be true, the incentive of the law will be for men to convert their property into cash, take their money and loan it and take securities upon real and personal estate, and the man who is fortunate enough to accumulate money can live in the community, exact his quarterly interest from the people who are compelled to borrow his money, and not contribute one dollar to the public treasury. Will not mendo it? Men are naturally selfish with respect to financial matters. What is there to prevent it? Suppose I were fortunate enough to accumulate all that I may have in this world in money and loan it, collect my interest daily and contribute nothing at all to the support of the State, when the State is protecting me, when the State elects and maintains its officers to foreclose my mortgage, lends the process of the law to secure me—witnesses, protects my loans, and yet I stand aloof and above the State, so far as the power of taxation is concerned.

Mr. GOODWIN. May I interrupt you a moment for a question?

Mr. EVANS (Weber). Certainly.

Mr. GOODWIN. If that was your business and you had to pay tax on your money that you loaned, would not you charge just as much more interest as the tax would amount to?

Mr. EVANS (Weber). I never yet knew a Shylock who was a patriot. I never knew the man who was fortunate enough to own and accumulate money who would loan it to the individual as a mere patriotic duty. He does it for selfish purposes, the interest goes according to the law of supply and demand and not according to patriotic purposes. Think of our bankers—our Shylocks being patriots in this country. I will tell you, sir, in answer to the gentleman's question, that no man has ever lived who has charged a less rate of interest to the person who is compelled to borrow it because of the fact that he had no taxes whatever to pay upon his money or mortgages.

That is the specious argument that is used by the money power. They tell us, "Tax mortgages and we will tax the consumer, we will tax the borrower. If you tax mortgages, we will withdraw our loans from the Territory. If you tax mortgages, it will retard enterprises and progress." Why, if I had my way as I now view it, having gone through a disastrous boom, such as we have experienced in this country, I would tax them so that people would not borrow their money at all. I would relieve the people from this insidious indebtedness, which ultimately results in the loss of the homes and roofs that cover their heads. I would have a people free from indebtedness. I would have a State free from indebtedness. I would not do that which would encourage the borrowing of money and the giving of mortgages so that the ultimate and inevitable result would be disaster and suffering. And now, having said as I have in that respect, I would like to ask the gentleman from Salt Lake, who asked me the question whether when

mortgages were exempt from taxation the interest was decreased—in 1892.

Mr. GOODWIN. Loans were made lower?

Mr. EVANS (Weber). By reason of that?

Mr. GOODWIN. Yes, sir.

Mr. EVANS (Weber). During the year they were exempt? And indeed I am informed that to-day interest is as high as it was then. It has been boldly asserted by the money power of this city—those whose Italian hand is at the back of this section, that they control the chamber of commerce, and that they control each newspaper in this city by reason of the obligations that those papers are under. It is boldly asserted by this money power that they can control all these agencies—

Mr. GOODWIN. Mr. Chairman, I arise to a question of personal privilege. There is one newspaper that no moneyed institution in this country has the slightest grip in the world on.

Mr. EVANS (Weber). I did not charge they were.

Mr. GOODWIN. You charged a street rumor, and it is easy to get those things up. There is one newspaper here that does not do what moneyed men want it to, or it would have been a good deal richer.

Mr. EVANS (Weber). Oh, I have no doubt about the virtue of the Tribune. It has always so far as its own utterances are concerned, at least had a very high opinion of itself. [Laughter.] I did not say that these papers were under obligation and could be controlled by this power, but I do say that it was boldly asserted by the money power that they could control them, and I find that every one of them advocates the exemption from taxation of mortgages.

Mr. CANNON. May I interrupt the gentleman to ask a question? It is in reference to your question concerning the rate of money. I understood you to ask Mr. Goodwin whether the rate of money was lower since the law was

changed. I will state that a loan was made in this city the other day for six per cent.—a loan of eighty-five thousand dollars, and would ask you if you know of a loan ever made in Utah prior to the time at which mortgages were exempted at an equally low rate?

Mr. EVANS (Weber). Oh, well, Mr. Cannon, you know well enough that everything has been reduced in price. You know well enough that wheat is reduced nearly one-half, all other commodities in proportion, and we know well enough too, gentlemen, that money can be secured pretty cheaply now, providing the right kind of security is put up, but it must be a gold dollar almost in order to secure a dollar in currency. Gentlemen, it is an indisputable fact that so far as the committee on taxation and revenue is concerned, every man who appeared before that committee, so far as I am informed, for the purpose of securing this clause in this Constitution was a man controlling money, a man controlling corporations, a man who was making his living by loaning money to people. Not a single borrower, so far as I know, ever appeared before that committee and asked that the money power be exempt from taxation. Now, gentlemen, let us put this question a little plainer upon another proposition and that is this: It has been already suggested and I only suggest it again so that we may understand it—and gentlemen may argue all they please and use all the statements they desire with respect to the fact that it is double taxation. One fact remains and that is this, that a note is taxed, money is taxed if it is in the bank, not drawing any interest at all. It is taxed there, is it not? We all agree that it is. Now, when you take that money out of the bank and loan it to the individual and secure it by a mortgage and receive interest upon it, then it is exempt from taxation. Is there anything right about that? Why

should you tax money in a form where it is not productive and then exempt it from taxation because it is amply secured and interest being quarterly derived from it? The principle itself is wrong. It ought not to go into this Constitution. The thing is original with the banker. No such provision was ever inserted in any constitution that was ever written upon the globe. Search your constitutions, search your acts of the legislature; you will find nothing as insidious and as mischievous as this section is designed to be and which practical operations will show it to be. We have agreed practically with our friend, Mr. Cannon, the chairman of this committee, upon all other propositions and have complimented him upon his intelligent work. We hoped to persuade him to leave this matter out of the Constitution and leave it to the Legislature where future Legislatures might deal with it wisely, but we failed to secure his assent. We simply said to him firmly that it would be our intention to move to strike out this matter and hoped that it would not be made political, and I am very glad that it has not been, because the gentleman from Garfield, I believe, moved to strike it out. But we make war upon it, and gentlemen, we will make a mistake—not a party mistake perhaps, but will make a serious blunder if we permit this section to go into the Constitution. We will simply permit the moneyed power of the State to take the individual citizen by the throat and strangle out his financial life. It will be one of those instruments in the hands of capital and money which will leave capitalists under the protection of the law and still, so far as the payment of taxes are concerned, above the law. It will work serious injustice to the State. It will be of no benefit to the individual. It will be an innovation of the most dangerous character. It ought to go out, gentlemen, by unanimous vote, and I

believe that that will be practically the result when the vote shall have been called for.

Mr. GOODWIN. I desire to ask a question. You make one splendid point, Mr. Evans, that money in the bank was taxed, but when it was loaned out, it was not taxed. Now, suppose a man takes it out of the bank himself and puts it in a house, would you still tax it in the bank?

Mr. EVANS (Weber). Why, no; then you tax the house; wherever the money was found it would be taxed.

Mr. GOODWIN. But if he loans it to another man and he builds a house, you tax the house and the money both?

Mr. EVANS (Weber). No, no. I did not answer you on that at all. As I understand that, if a man owns money and puts it into the house, he does not own the money any longer; he simply exchanges it for a house and then the house is taxed, but the money goes into other hands and wherever that is found that should be taxed.

Mr. GOODWIN. You have five thousand dollars in the bank. It is taxed. You loan it to me, I put it in a house and I am taxed for that, is it right to go back and tax you too?

Mr. EVANS (Weber). Certainly, that is just the point I make.

Mr. GOODWIN. Is not that double taxation?

Mr. EVANS (Weber). I am very glad that the gentleman has raised that point. That is true, I will make an illustration. I am a money loaner, I have twenty thousand dollars in cash in the bank; it is taxed while it is in the bank, but Judge Goodwin desires to build him a house; I loan him the twenty thousand dollars and take security upon his lot and on his house in the form of a mortgage. He pays me ten per cent interest, which would be two thousand dollars per annum that I am receiving. He has to pay the tax on his house and his im-

provements. He pays me two thousand dollars per annum for the money which I have loaned him, and I stand exempt from taxation. There is the illustration which he gives.

Mr. SNOW. Isn't that mortgage which you have subject to assignment or sale? Couldn't you sell it? Is it not of real value?

Mr. EVANS (Weber). Certainly, it is of the utmost value. It is one of the best securities where it is secured by real estate.

Mr. ELDREDGE. Mr. Chairman and gentlemen, I will be brief upon this proposition, but at the same time I would like to express my views wherein I differ with the gentleman who has just taken the floor. Section 3 of this article under consideration provides for an assessment of all property. Still further down in that section it says, "provided that a deduction of debts from credits may be authorized." The same question that is involved in section 5 is also involved in that proviso, and in my mind is clearly a correct principle. I do not view a mortgage as property. I view it as the evidence of property and if that evidence is followed to its logical conclusion, you will find where the property lies that the mortgage represents. Now, the gentleman from Garfield, speaking concerning a circumstance of this kind that a man owned a piece of real estate and that he borrowed on that we will say ten thousand dollars and invested it in cattle and took the cattle into Arizona, that when the assessor under the provisions of this act came around, if the mortgage was exempt that property did not contribute towards the support of the government. If it does not contribute to it in this State it certainly is taxed in the state where the cattle have been taken and thus the value of the money that has been borrowed is represented in the property in which he puts it. And if that money should be taxed in Utah and the property taxed

in Arizona, there is a double taxation upon that amount of property.

Mr. THURMAN. Suppose you would work it so that all the property owned by people in Utah would be held in some way in Arizona, so that they would only have here the evidence of it, how would you keep up a State government?

Mr. ELDREDGE. Well, suppositions may be made that are very foreign to any possibilities. We will draw this matter perhaps a little bit closer. Supposing a man that borrowed the money upon his farm placed it in cattle and kept the cattle within our own Territory. The cattle then are taxed within our own Territory, and thus that money is taxed in the investment where the property lies and as I said, in the first place, the mortgage is not property. It is only the evidence of property. Now, we will suppose that a man has got a farm and that farm is worth five thousand dollars; he goes and borrows of some man here five thousand dollars to put in improvements upon that farm. The assessor comes along and assesses that farm with the improvements for a sum of ten thousand dollars, and then he would assess the man that had loaned the money five thousand dollars, making an assessment upon that property of fifteen thousand dollars, we will say in the year 1895. In the year 1896, the man is not able to pay the five thousand dollars that he borrowed, and hence the man takes the farm in the transaction and pays the individual five thousand dollars for his interest in the farm. A man comes along then and assesses the farm. He assesses it for ten thousand dollars. The amount then that the man has loaned is absorbed in the farm and only represents just the same as it did when he held the mortgage, and hence the State loses five thousand dollars under the transaction, according to the theory of the gentleman from Weber County. Now, he is speaking concerning spurious mortgages. I cannot see

where that question possibly takes place. The section here simply provides that if mortgages are taxed the amount must be deducted from the property upon which the mortgage is given.

Mr. SNOW. Isn't that a virtual exception or exemption from taxation?

Mr. ELDREDGE. I understand that to mean this, that if I had a house and lot no which I had borrowed five thousand dollars and that property was worth we will say fifteen thousand dollars, the assessor comes along and says, "How much is this property worth?" "Is it worth fifteen thousand dollars?" He lists it for fifteen thousand, but I say, "By the way, I have got a mortgage on it for five thousand dollars." Then it is fifteen thousand dollars less the five thousand dollars that I borrowed. "Whom did you borrow this money from?" "I borrowed it from John Jones." He then lists the amount of the mortgage to John Jones, and thus between myself and John Jones we pay the fifteen thousand dollars which is invested and is manifested there in that real property. That is the way I view that. Now, in regard to the question that was before the Legislature last winter, I have this to say, in defense of the gentleman from Sanpete County—and should there be any question I can produce the article—that that gentleman's idea of taxing mortgages was just exactly as set forth in this proposition. That if a mortgage should be made subject to taxation, it should be deducted from the value of the property that was given in security, and that was the Honorable Jacob Johnson's position to my knowledge upon the proposition, and I would like to have the gentleman properly represented before this Convention.

Mr. CORAY. Do you consider that proposition is set forth in the article?

Mr. ELDREDGE. Yes, sir.

Mr. EVANS (Weber). Mr. Chairman, I understood Mr. Jacob Johnson's position to be that the mortgage should be

taxed but the amount should be deducted from the value of the property, that is not this proposition. It says mortgages never shall be taxed unless—

Mr. ELDREDGE. Yes; his proposition was this, that mortgages should be taxed provided that the amount should be deducted from the assessed value of the property securing the mortgage.

Mr. EVANS (Weber). He had the California provision, didn't he?

Mr. ELDREDGE. I do not know; so far as the California provision, I have the bill that he introduced on file.

Mr. JAMES. Mr. Chairman, I will not impose upon your time very long, but I do feel as if I would like to make a few remarks upon this question. I cannot see the situation from the same standpoint that some gentlemen have that have argued the question this morning. I have had some little experience in my life in business and I have learned what it was to borrow money. I have in the last two years, Mr. Chairman, borrowed in this town large sums of money which I have paid out to the laboring classes and for supplies and other operations of mining. Now, I know that gentlemen do not intend to be unjust when they speak of the Shylock banker. There is some good in all things I believe in this world, and in instances the banker of Salt Lake City has been of great benefit, not only to himself and the rich, but to the poor as well. When I go to the bank and draw out money month after month as I have done in the past two years, without one single dollar of income from the industry which I was operating, and which I am doing to-day, and that banker allows me an overdraft, as I have got it unfortunately to-day, he is doing as much good with his money as it is possible for any individual to do with his money in a business proposition. Now, gentlemen, that is the condition in a great

many instances, here in Utah Territory and in Salt Lake City, and for that reason I want to say that I do not want this Convention to be too severe upon our bankers and our business men in this community. Now, as to the gentleman saying spurious mortgages would be put on record if this section was adopted, it seems to me that that is absurd, because under the mortgage the mortgage would either have to be taxed or the property. It is embodied in one. As I understand it, it is simply to prevent the double taxation. I do not think that that needs much argument to understand. The strongest point the gentleman makes is that there is such a thing as money loaned on mortgages that does not pay a tax.

Now, all things equalize themselves. Water finds its level; nature created things in this world so that they worked for one general object, and that is the equalization of all things. Now, if the mortgage can go without taxation, capital will seek mortgages, consequently the man that is borrowing money upon his land will get it for less than the man who has to borrow it on other collateral where he will pay a tax. Now, that is the natural result and it cannot be gotten away from, Mr. Chairman. That rule will hold good; but here is a point now I want to call the gentleman's attention to. I said to the gentlemen a little while ago that I had been overdrawing in this city. Now, did I pay any tax on that overdraft? No, sir. Now, there is the condition of things, that a man that is fortunate enough to have a credit can go to a bank and borrow money and pay no tax on it, but the poor man that works at the forge, that works at the bench as a carpenter, that has his little farm out here, that does not happen to be known or does not happen to have a credit at the bank, so that he can borrow money if he needs a little money for improvement or some enterprises, what does he have to do? He has to tie up his prop-

erty and mortgage it to get this money and the result is the mortgage is taxed and the land is taxed. Consequently that business is double taxation. Where the business men, Mr. Auerbach, or any other merchant of standing in this community, wants to borrow fifty thousand dollars, he goes to a bank and overdrafts it, and the tax collector never thinks of going around and assessing that overdraft, consequently he gets that money without paying a tax. Now, do you not see, gentlemen, in order to equalize this thing you have got to pursue the very course that the committee has pursued in adopting this section, and I want to say to you, gentlemen, there was some question raised here—that any other constitution ever had anything that was anything like this? That is, if I understood the language correctly, there was a statement of that kind made. Now, take the state of California, what does it say? A mortgage, deed of trust, contract or other obligation, by which debt is secured, shall for the purpose of assessment and taxation be deemed and treated as an interest in the property affected thereby. Now, they have done the same thing in California, as gentlemen have attempted to do it in this section, as I understand it.

Mr. EVANS (Weber). Beg your pardon, Mr. James, but you certainly do not understand the California provision if you understand it to be the same as this. The California provision requires a tax upon mortgages, but the amount shall be deducted from the value of the property.

Mr. JAMES. Is not that what this section proposes to do?

Mr. EVANS (Weber.) No. That says there shall never be a tax upon a mortgage unless the amount is deducted from it. The Legislature might put a tax upon mortgages, but the California provision simply taxes the mortgage outright, and I would like also to remind my friend, Mr. James, that I

think two-thirds of the members of the Legislature have already passed a law repealing that very provision which you are now reading—that is, in submitting it to the people for a vote, two-thirds of the members of the Legislature, as I understand, have passed an act which would repeal that if the people approve it.

Mr. CANNON. I want to ask the gentleman whether or not under this provision of this section the California statute could not be enacted by our Legislature?

Mr. EVANS (Weber). It could be. It could be enacted but the constitutional provision in California compels a tax upon mortgages. Ours relieves the mortgage from taxation so far as the the Constitution is concerned, and it would require an act of the Legislature, and whenever an act of the Legislature was passed to tax mortgages, then there would be no tax upon the property owner equal to the value of the mortgage.

Mr. JAMES. Now, I understand, Mr. Chairman, that there are other ways of taking advantage of this system of taxing mortgages. I know that during the time that the statute in Utah imposed a tax upon mortgages that a system of business of this kind was done, because I know the very transaction. I know of one instance where a property was mortgaged in this town in Omaha. It went to a bank. The business was transacted in that bank, the money was loaned there, but it was money of Salt Lake. The arrangements were made through an agent and in that way they avoided this tax, and what was the result? Why, they accomplished in it only this, that it put that poor widow woman to the expense of fifty or sixty dollars to send down to Omaha and get her home mortgaged, to get some money—extra—that is all it accomplished; and when you gentlemen that were in the Legislature that repealed that act did what you did, I be-

lieve that you did this Territory a great benefit. I felt it at the time. I understood it from my business relations here and I have so believed ever since, and I haven't had anything to convince me to the contrary, but what it was a great advantage to this Territory to allow people that happened to own real estate to be placed on the same basis as the man that owned the municipal bonds. The man that owns municipal bonds or the bank bonds or other collateral that are good can go to the bank and deposit them and get the money and he is not taxed, but the poor man that happens to own a little home somewhere has got to go and mortgage it, then the mortgage is taxed and his home is taxed on that; I say that is double taxation.

Mr. BOYER. May I ask the gentleman a question? Your statement in relation to the poor woman being required to pay fifty dollars—whether that additional expense was an addition of interest upon the money or whether it was attorney's fees—a middleman that charged her attorney's fees?

Mr. JAMES. That is what it was.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I was in hopes that when this question came up it would be discussed entirely upon its merits and that we would discuss it dispassionately with an intention but to arrive at a correct conclusion. I trust gentlemen, you will look at this matter in a fair and dispassionate way. If it is not right to retain the section, I want it stricken out. If it is right, I claim that it should stand there and that you should be open to conviction and listen to that which is to be said. In the first place I was astonished that my friend from Washington County should make a personal attack upon me and state what he did state concerning this matter. I was equally astonished to hear my friend from Weber County claim that the Italian hand of the

money power was behind this section. I have been astonished at the position taken by different gentlemen because, while we differ with respect to different sections that may be presented, I will claim, and without fear of contradiction, that in the committee which has reported this article and of which these two gentlemen are members, that every consideration has been afforded them to express their views, and to bring in their friends, to bring any matter before that committee, and I claim, gentlemen and Mr. Chairman, that a full investigation was made as far as possible of this question by the committee with the intention to receive all the light possible. I took the position that the speaker from Washington County takes when the committee first met. I was in favor of taxing mortgages. I so announced myself, and in order that it might be spread, in order that the people might know it, it was published in the public prints and everybody who saw fit to meet and come before our committee had an opportunity of doing so, for about three weeks. On this bulletin board here the time that that committee met was placed in plain view, and any one could learn what was done in the matter.

I believe that there is something in favor of the position taken by the gentleman from Washington County. I believe that where a tax is not placed on mortgages, I believe that it places a sort of premium upon the money lender and to that extent I am very sorry that it is not wise at this time, in my opinion, to place a provision in the Constitution taxing mortgages. At the same time, the committee had good reasons, as I view it, for not placing such a provision in this, but I desire to call your attention to that which existed here a few years ago. Under the old law a provision was had which provided that from taxable credits, debts due and owing might be deducted. How was that interpreted?

My friend from Washington County interpreted it, so he informs me, that if a man had a mortgage on his home and would give him the name of the party who held that mortgage, that he would except the value of the mortgage from the assessed value of the property and go and assess the money to the other man. In Salt Lake County an entirely different procedure obtained. Here the full value of the property was assessed. And in addition to that the amount held by the mortgagee was assessed to him. There is a case, gentlemen, where there was a discrimination. It was not right for the people of Washington County to allow it and the people of Salt Lake County to refuse to allow it. Taxes should be equitable, should be equal in all parts of the State. The fact that this has existed in that way convinces me among other things that the provision of the law was a bad one.

In the next place I take the position held by Judge Goodwin, that there is not a single case where a tax assessed upon a mortgage and assessed at the full value of the real estate also is not double taxation. To illustrate what I mean, I will take a case of two men who have a thousand dollars each, and desire to buy a farm. Putting it together, they buy a farm worth two thousand dollars. The assessor assessed that farm to its full value, two thousand dollars. That would be the only assessment that there would be. Now, suppose one of those two men did not want to buy a farm, but was willing to loan his money to his friend; the friend borrows the thousand dollars from his companion, takes the same two thousand dollars, to which I referred first, and buys the farm. How will it then be assessed, if we do not put this prohibition in the law? Under the old law, as it was applied in Salt Lake County and in other counties in the central part of Utah, it would be assessed this way, the farm would be assessed to the man who purchased it at the full amount,

two thousand dollars. The mortgage would be assessed at one thousand dollars to the man who loaned his friend the one thousand dollars. The total assessment would be three thousand dollars.

Now, my friends, is not that a clear case of double taxation? What is the difference? The two men use the same money, they put it into the same farm; the only difference is that one owns a half interest in the form of a mortgage, in the latter case and in the former case, he owned an undivided half interest in the land itself. There you would be assessing three thousand dollars in one case simply because of the difference in name. Now, another case. Take the case of a man who builds a home for another. If under the law he provided that he would sell it to him on the installment plan, how would it be assessed? Assume that it was valued at two thousand dollars, on the installment plan it would be assessed to the man who was selling it; because the title stands in him. It would remain in him and it would be assessed simply two thousand dollars. The man who has agreed to purchase it and who is living in it and making monthly payments on it would not be assessed at all, because the property still stands in the name of the original vendor. Now, suppose that instead of doing that, he has confidence in the purchaser and he says, "Well if you would prefer a deed and would like to give me a mortgage in return I will take a mortgage for the full amount, believing in your integrity and knowing you can pay it eventually." What would then be the provision? Under the old rule which is designed to be prohibited by this section, they would first assess to the man purchasing the house and lot two thousand dollars. Then, because he has executed a mortgage they assess two thousand dollars to the man who holds it, total assessment four thousand dollars, whereas the same property, the

same interest identically, only covered by another name, exists in both cases.

We will take another case. A man who already has a home of two thousand dollars thinks that it would be to his interest to buy a herd of sheep. Formerly he has been assessed with his home at two thousand dollars. He borrows a thousand dollars and buys sheep with it. What is his assessment under the old plan? Two thousand dollars would be the amount he would be assessed on his home and one thousand dollars he would be assessed on his sheep. Well, you say the sheep were in existence; yes, they are in existence, but that man's interest in his home has decreased the amount he borrowed and he should be allowed that amount of exemption. He should be allowed to deduct from the value of his home one thousand dollars, because he only has in real property, so far as actual value is concerned, one thousand dollars, now in the shape of a one thousand dollar equity in his homestead. I defy any one to present a single case to me where it is not double taxation, where under the operation of the old law, under this provision it did not provide for taxing double.

Mr. EVANS (Weber). What would become of the man who loaned this two thousand dollars on this home? He would not be taxed at all, would he?

Mr. CANNON. In which case are you alluding to—the last?

Mr. EVANS (Weber). I am alluding to the last illustration you made.

Mr. CANNON. That was one thousand dollars.

Mr. EVANS (Weber). Well, one thousand dollars, whatever the amount is, if he loaned it under your provision, he would not be assessed at all, would he?

Mr. CANNON. Under the law which you have passed, my friends, he would not. I did not help pass it. Under the law which you helped to pass, he would not, but under this section—

Mr. EVANS (Weber). I mean under

this law which you now propose to pursue by enactment.

Mr. CANNON. He would not be assessed unless the Legislature saw fit to tax mortgages.

Mr. EVANS (Weber). Please answer me. Under the constitutional provision which you have written, would he be assessed at all?

Mr. CANNON. He would not until the Legislature assessed him.

Mr. EVANS (Weber). Under this law, he could not be assessed, could he?

Mr. CANNON. No sir; under the law which you passed, and under this law which I am helping to perpetuate, he would not be taxed until the Legislature should see fit to tax him. I do not believe that a case can be cited in which it is not double taxation, in one form or another. The only attempt I have ever heard made to cite such a case was where the man borrowed the money and spent it in mining and lost it. The gentleman said the property was not there to tax, and consequently in that case it would not be double taxation, but would be double taxation so far as the poor fellow was concerned who had borrowed the money. If he had spent it in mining, he would only have that which was left and having his homestead which was worth two and only had an equity of one thousand dollars. The section proposed here does not provide that you shall not tax mortgages, but that is left to the Legislature.

Mr. EVANS (Weber). The Legislature under this constitutional provision could not, under any emergency or circumstances, tax both, could it?

Mr. CANNON. No, sir; they could not have double taxation.

Mr. EVANS (Weber). That is to say, if an emergency should arise, so that revenue was imperatively necessary, the Legislature could not tax the mortgage and the property both?

Mr. CANNON. No more than they

could double tax your land that did not have a house on it.

Mr. EVANS (Weber). That is true, is it not?

Mr. CANNON. That is the purpose of it exactly, so that it shall never under any case permit double taxation in this instance. I desire to call attention to the way that this old law operated. I have in mind a case which actually occurred where a man in Salt Lake County has eighteen thousand dollars' worth of mortgages upon the books of the recorder's office of this county. That man had an overdraft at the bank to the amount of thirteen thousand dollars; when the assessor came around, he said, pointing to this provision of law, "from taxable credits, debts due and owing are allowed to be deducted." Yes, said the assessor, "what have you got to deduct?" He took his book and showed that on the first day of January, which was the date at that time when they were assessing, he owed one banker so much and another banker so much and the total was thirteen thousand dollars, and the assessor deducted from his taxable credits of eighteen thousand dollars' worth of mortgages which he held the thirteen thousand dollars and only assessed him five thousand dollars of it.

Now, at the same time, I know a man who had property, in the form of bonds worth ten thousand dollars, and that was the valuation of it, who owed a mortgage of six thousand dollars, and he went to the assessor and said, here is a provision in the law which says that from taxable credits, debts due and owing may be deducted, and asked the assessor to deduct the six thousand dollar mortgage which he had. Here the assessor says, "No, that is not correct." He says, "I cannot take in your debts, because yours is real estate and that is not a taxable credit, as interpreted by the law," and he refused to make any deduction. Now, my friends, I claim that interpretation was an inter-

pretation which discriminates against every farmer, against every householder, against every man who borrows in the form of a mortgage, and I claim it would be no more right to exempt a man who happened to have a big credit at the bank, the amount that he owed there, than it was to exempt the man who had a farm and who had his six thousand dollars, and the provision provided by this section would prohibit any such unjust discrimination. Under the present law a man who is a broker on Main street is allowed to deduct from his taxable credits the amounts that he may owe to his depositors, the amounts that he may owe upon his notes. A man may have ten thousand dollars in taxable credits; they might be under the old law in the form of mortgages, and if he could show that he owed nine thousand dollars, he could be allowed to deduct it, but if a farmer having a farm that was mortgaged nearly up to the highest notch, worth, we will say, two thousand dollars and mortgaged for fifteen hundred dollars (and there have been a good many of that kind) that farmer would be required to pay taxes upon the full amount under the old law and the mortgage be assessed too. I claim that that is unjust and I claim that it is in the interest of equity that it should not be done. Now, one minute with reference to the objection offered by Mr. Pierce, although it is not before the committee. Mr. Pierce stated that he would like to amend if this were stricken out, part of the other which provided that all property shall be taxed, not exempt under the laws of the United States or of this State. Why, gentlemen, how many of you would consent to that? How many would consent to providing that any property which the Legislature might hereafter exempt would be exempt from taxation?

Mr. EVANS (Weber). Very few, possibly.

Mr. SNOW. All of us.

Mr. CANNON. Mr. Evans says he would not, Mr. Snow says he would. I do not think there are fifteen members on this floor that would agree to leave that provision in there, which would leave it so that the Legislature might exempt a particular man's property or any class of property if they saw fit so to do. The reason they limit the exemptions is because they want it confined in the Constitution, so that it shall be only certain classes of property. Now, the gentleman made a criticism of the fact or claimed that I had stumped this county and adjacent counties and criticised the democratic Legislature that passed that law. That is a fact, I did that. I believe there are men present who heard me and I am not ashamed of it. What criticism did I utter? I believe in stating an adversary's position, and never giving only part of it. I say that it would be only right if they saw fit to do so, to exempt the homes upon which those mortgages existed. I favored in my speeches, at different places, taxing the mortgages and exempting the property of the man who had been compelled by circumstances over which he had no control in many cases to give the mortgages, and give the poor man the exemption and not hold it out in that form.

Mr. EVANS (Weber). Mr. Chairman, I would like to ask a question. I would like to know whether you criticised your nephew the honorable Frank J. Cannon for recommending that the Legislature passed that law?

Mr. CANNON. My nephew is not the Honorable Frank J. Cannon, but I do not know why the gentleman singles out Mr. Frank J. Cannon. I would like to ask him if Mr. Frank J. Cannon was chairman of that committee.

Mr. EVANS (Weber). I believe not.

Mr. CANNON. Was Mr. Frank J. Cannon's signature attached to that report?

Mr. EVANS (Weber). It was, according to my recollection.

Mr. CANNON. Have you a distinct recollection?

Mr. EVANS (Weber.) I have a very distinct recollection.

Mr. CANNON. You think it was attached, do you?

Mr. EVANS (Weber). I do.

Mr. CANNON. But you are not sure of it?

Mr. EVANS (Weber). No, I can produce the report.

Mr. CANNON. He was not chairman, however. I do not know why you single it out. I am afraid the gentleman is trying to attribute a little political tinge to this discussion?

Mr. EVANS (Weber). No, not at all.

Mr. CANNON. The gentleman who first spoke and several who have spoken claim it is not a political question. I believe it is not either. I think politics have nothing to do with it. It is a question of simple business and not politics, and I hope the vote will be accordingly. I desire to call your attention to this fact. I favored the provision as provided in the California constitution. The gentleman from Washington County quoted me particularly when he says I took that position, but it is said a wise man may sometimes change his opinion but a fool never. We wrote to California, and we got letters from different classes there, one or two of which I desire to read. One from Mr. J. D. Siebe, assessor. (Reads.)

I have here a copy of the revenue laws of California. We found under that, gentlemen, it was in the form, that they exempted the national banks practically from taxation; that they did not have anything like the taxation which we have in Utah, and if we would exempt that we would exempt more than the amount loaned on mortgages. And under the old California law, this was the purpose. I have a letter dated Sacramento, March 25, 1895, in reference to this. (Reads.)

And there is a provision in the California law exempting free public libraries and free public museums, growing crops, mortgages, trust deeds, property used exclusively for public schools, and such as may belong to the United States, the state, or to any county or municipal corporation within the state.

Mr. EVANS (Weber). That has not yet been voted upon by the people.

Mr. CANNON. No, sir; this was passed by two-thirds majority of the Legislature. I call attention to this fact that after this law had been in operation in California since about 1876, I think it was, after they had tried it there for nineteen years, there is such a division of opinion that the representatives of the people elected to the legislature, by a two-thirds vote, vote to repeal that old law. Now, gentlemen, with that staring them in the face, with that kind of a record from a state that has tried it for nineteen years, was it unwise for this committee to come in here and say we favor leaving it to the Legislature instead of putting that old law in here? The minority of those men, who are making the fight upon this clause, that they would report a substitute—not to strike this out, but they would report a substitute, inserting that California provision. Why have they not done it? Why do not they, if they favor taxing mortgages, provide here a substitute by which we can come right to the root of the matter and tax them as they propose to do. If they want to put that in and there are enough here to make out on the balance, and my vote is the casting vote, I will vote to tax mortgages, because my position is the same as before; but I claim, gentlemen, with this instance of California's experience after a trial of nineteen years, we can afford to leave it to the Legislature, and the only thing I insist shall be put in is this, a provision by which you must exempt from taxation, if you tax mortgages, the property which is covered by it, and which

belongs to a poor unfortunate man who has been compelled to borrow. That is the question, and that is the position upon which I stand. I do not care for the arguments which were used casting reflections upon my character. I do not care for reflections which are used here in which bankers are referred to as Shylocks, because I am too poor to feel that I am in that class of bankers. I do not care for that which is used simply for throwing dust in your eyes and not by way of convincing your intellects. But I ask you, gentlemen, to dispassionately look at the facts in this case and then provide that, if they ever do tax mortgages, which the Legislature has full power under this section to do, that they shall grant justice to the man whose property is mortgaged and shall exempt it to that extent that they get it from the other.

Mr. IVINS. Is it true that two-thirds of the members of the California legislature voted to repeal the law taxing mortgages, or is it true that two-thirds of them voted to refer that section to the people to get an expression of their views in regard to it? I want to state that this is an amendment to the California constitution and that the members simply voted by a two-thirds vote to submit it to the people.

Mr. CANNON. The fact in the matter is as follows, the secretary of the state board of equalization says a constitutional amendment has been adopted by the recent legislature and will be submitted to the people for ratification at the next general election, exempting such property from taxation. They have adopted and the people simply have to ratify it. It was the opinion of the legislature that it should be adopted or they would not have passed it in that form.

Mr. IVINS. Another thing, the gentleman said that while I was assessor and collector of Washington County, if there was a mortgage on a man's home, that I deducted the amount from his

home and assessed the money to the person making the loan; I want to say that during the six years I was assessor and collector of Washington County there was not a single instance came under my observation, where a home was mortgaged in that county, and I do not think to-day that after a good many years have elapsed since I was assessor, there are a dozen real estate mortgages recorded in Washington County, and there was never one that I know of.

Mr. CANNON. Did you state in our committee that you made the deduction I stated?

Mr. IVINS. Yes, but not in homes—not from real estate. The idea was all right. I simply just wanted you to understand that, thank the Lord, Washington County is not mortgaged now and never has been.

Mr. EVANS (Weber). I would like to know how it is in San Juan. [Laughter.]

Mr. LUND. I want to ask Mr. Cannon a question. Is this the first attempt by the people of California to repeal that law?

Mr. CANNON. I am not conscious of that; I did not ask.

Mr. LUND. I understand that it is; it might work well in Utah for twenty years.

Mr. CANNON. I will tell Mr. Lund that the question has been agitated for a great many years, but I have not gone into the history of California to investigate it. I simply wrote there at the time favoring this proposition and expecting to incorporate it, and this was the result.

The question being taken on the motion to strike out, the committee divided, and by a vote of 57 ayes to 24 noes, the motion was agreed to.

The committee then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee met pursuant to ad-

journalment and resumed consideration of the article on revenue and taxation.

Section 6 was read.

Section 7 was read.

Mr. EICHNOR. Mr. Chairman, before we pass on to the next section, I desire to ask the chairman of the committee on revenue and taxation whether under this section the moneys in the various counties are comprehended—the expense of State, counties, cities, or whether it is simply to apply to the State?

Mr. CANNON. I thought the gentleman would understand this because it was taken in body from Washington.

Mr. EICHNOR. It is all right.

Section 8 was read.

Mr. KIMBALL (Weber). Mr. Chairman, I move to strike out that section entirely. I do that for this reason, that there may contingencies arise in which the Legislature ought to be entitled to act in this matter. We cannot tell now in advance of legislation what the contingencies may be. I move for that reason to strike out that whole section and leave it to the Legislature to fix the rate of taxation. It will be absolutely necessary in some instances that the Legislature shall fix the limitation.

Mr. CANNON. Mr. Chairman, it has been stated here in the Convention a number of times that one objection to the Constitution would be the increased taxation. By limiting the rate as herein provided the people are insured that no Legislature shall ever increase their present tax which is now five mills, more than three mills, if the property be less than two hundred millions in value. And that when it reaches two hundred millions that the rate shall be dropped to five mills. I think that the amount here given as the maximum amount is sufficiently large to cover any expense that will be incurred. It will yield a revenue on the present valuation of very nearly eight hundred thousand dollars per annum, and the estimated expenses fall very much below that

amount. I do not think that it will be necessary for State purposes with the economy that is being provided for by the Constitution to assess more than six or seven mills, and I certainly favor keeping it in, as I believe it will aid in the adoption of the Constitution.

Mr. KIMBALL (Weber). Mr. Chairman, I do not think that the gentleman answered the question. There are many instances that I have in mind when the Legislature should be left at liberty to increase the taxation or decrease it. If we put this proposition in the Constitution it would forever forbid the Legislature from going beyond a certain amount. I do not think that is proper. I think it should be left to legislation to fix the amount of taxation.

Mr. SNOW. I would like to ask the chairman a question, whether section 8 harmonizes with the latter part of section 2, beginning on line 16. (Reads.)

Would this provision in section 8 be ample to cover this under all circumstances?

Mr. CANNON. It would by proper economy, because we limit the amount of debt that can be created. It would be sufficient to pay our present indebtedness and the amount that is provided for by our Constitution.

Mr. HAMMOND. I second this motion with an eye to San Juan. There may occasions arise in that undeveloped country as it now is when we want to enter into large expenditures in the interest of irrigation and to construct large reservoirs, and I would like the Legislature to have power, as I believe they will have the will, to assist San Juan in those enterprises, and with that view, I am in favor of the motion to strike out, that the Legislature shall have power to assess at any rate from one mill to twenty-five, if they think it is necessary.

Mr. THORESON. Mr. Chairman, I do not think we are able to legislate for San Juan County. If they want to

bond that county there is a provision for that purpose, if the majority of the people vote for it. I am opposed to the striking out of this section. The question of the rate of taxation is the important question connected with statehood for this Territory. That is a question that people ask, "is it not going to increase our rate of taxation?" And I say unless we have a provision in here guarding that point, there will be more doubt about the people assuming a Constitution, than any other point. The committee has duly considered this.

The eight per cent. will cover the ordinary emergencies and if there is more revenue wanted, if you will notice the section provides that the people of the Territory can vote to increase this rate and raise the revenues desired, but the vote of the people with a higher rate of taxation than eight mills is something that shall cause people to vote against this Constitution. I think we should guard our people against any higher rate and I think the section should be retained.

The motion to strike out was rejected. Sections 9, 10, 11, and 12 were read.

Mr. Allen offered the following substitute for section 12:

State and county boards for equalization of taxes shall be provided by law.

Mr. ALLEN. Mr. Chairman, my reasons for offering a substitute here are these: in the first place, I do not believe that the board as here named would give satisfaction for the reason that they are most apt to be citizens of the city where the capital of the State is, and they will not be acquainted with the values in the different parts of the Territory, and for them to travel and inform themselves would be expensive. I think the Legislature would be able to provide a board that will come nearer understanding the different values throughout the Territory than these named here. In addition to that it appears to me to be unnecessary to go

on and state that these boards shall equalize the tax on real estate and personal property, etc. I think that is legislation and of course it could be for no other purpose only that. Therefore, I think this should be left to the Legislature, with the exception of those few words.

Mr. THORESON. Let me ask the gentleman a question. The boards we provide for here—the State boards at least will serve without pay according to the other parts of the article. Would their mileage and expenses outside amount to as much as the expenses of an outside board and their mileage?

Mr. ALLEN. I think that they would be obliged to travel in order to obtain the information themselves, and their expenses would be more than—

Mr. THORESON. Will it increase the expenses?

Mr. ALLEN. I do not think it would increase the expense, but they would not have the knowledge the other board would have.

Mr. EVANS (Weber). Mr. Chairman, I offer the following amendment to the original section:

“Until otherwise provided by law,” to be inserted at the beginning of the section. I am informed that the board of equalization at present costs the Territory about seven thousand dollars. This board would serve without compensation, and if it is found in the future to be inadvisable that this board should continue for that purpose, the Legislature can change it, and I am in favor of leaving the section as it is with that amendment.

Mr. SQUIRES. I want to ask Mr. Evans a question. I understand that we have provided in the executive article so that this State board would not cost the State anything for serving?

Mr. EVANS (Weber). That is exactly what I want.

Mr. SQUIRES. Have we provided that the board of county commissioners

would serve without extra compensation?

Mr. EVANS (Weber). I think not.

Mr. SQUIRES. Then, would it not be wise to add after the word county, “who shall receive no extra compensation, for that service?”

Mr. EVANS (Weber). I think it would.

Mr. SQUIRES. I move to insert that then.

The CHAIRMAN. I would hold that the amendment has gone as far as it can go. I do not care to have ourselves tangled up any farther.

Mr. CREER. Mr. Chairman, I simply want to endorse the sentiment expressed by Mr. Evans of Weber County on this proposition. I think that the qualifications of those men are more to be considered than the matter of the saving of the expense. The State treasurer and auditor may have qualifications suitable for that purpose, they may be able accountants, possibly assistant cashier, clerk, or something of that kind, but as to estimating various kinds of property in the Territory, I think that certainly they would not be proper subjects for that position and I am opposed upon this idea anyway, all the way through. I am opposed to it in the way of the executive, that we have passed. The idea of making a treasurer—he is the man that has to handle the funds, and it would give him the power to discriminate for or against in many instances, as it would in regard to making the governor one of the members of the board of the other public institutions. He would have one-third of the office in endorsing appropriations for those institutions and he may be prejudiced in their favor or in favor of some other. I am opposed to this principle except to the qualification that I am willing it should be tried as an experiment, but to put it in there permanently I think that it would be a great mistake. Therefore, I am going to vote for it as proposed by the gentle-

man from Weber County—until otherwise provided by law.

Mr. FARR. Mr. Chairman, I have been opposed all the way through to legislating, excepting where it is absolutely necessary. I think this section, with Mr. Evans's amendment, should be in by all means, "unless otherwise provided by law," and if the next Legislature sees it necessary to make a change, they can change it, consequently I am in favor of this section with that amendment.

Mr. KIMBALL (Weber). Mr. Chairman, I am certainly in favor of the section as it stands. As now provided the State board shall consist of governor, state auditor, state treasurer, secretary of state, and attorney general. Those gentlemen are all salaried officers. They have no interest whatever in increasing or decreasing of taxation, and they are the proper men to go into this board. The county commissioners are likewise elected to a certain office, they get certain pay, and they have no interest in increasing or decreasing taxation, so I am in favor of the section as it now stands, because I think it is the most equitable thing that we could insert in the Constitution, for the reason that neither of the officers is a salaried officer neither of them get anything for increasing or decreasing the taxation. I submit that is the proper thing to stand.

Mr. HEYBOURNE. I object, Mr. Chairman, to the section as it now reads and am of the opinion that I shall support the amendment offered by the gentleman from Weber County. This matter of taxation is quite important. The equalizing of taxes is a very important matter, and while I have the greatest respect for the ability of the gentlemen that are named here in this section, I am of the opinion that in order to do justice to all parts of this Territory, there should be a representation on the board, so that they might take into consideration the different

valuations as they exist throughout the length and breadth of the coming State. We have a county board provided for here, whose duty it is to equalize the taxes of individuals, in the various counties. That seems to work reasonably well and the board of equalization that is provided for at the present time for territorial labors have had a representation in that body from various parts of the Territory, and I think that it has worked first rate. It has given general satisfaction. When we come to concentrate the members of this board here in this city, I believe it would be an injustice to the outlying counties. Therefore, I shall support the gentleman's amendment that provides until otherwise provided by law, leaving the matter then in the hands of the Legislature to look after the varied interests of the coming State.

Mr. SQUIRES. I would like to ask the gentleman a question. I judge from his remarks that he does not expect any officers are going to be elected to State offices, except gentlemen from Salt Lake County.

Mr. HEYBOURNE. Well, I should judge from this section here that provisions are made for certain gentlemen from the officers of the State.

Mr. SQUIRES. But they are liable to be elected from the outlying counties of the State and will come here with a knowledge of the values of the outlying counties.

Mr. HEYBOURNE. Judging from the past, I think they will be elected from here.

Mr. THORESON. Inasmuch as you are willing and want to leave it to the Legislature, why not leave it to the Legislature entirely and not go on and put a section in here?

Mr. HEYBOURNE. I understand the gentleman's amendment has that object in view; "Until otherwise provided by law."

When the Legislature meets they can attend to that matter.

Mr. THORESON. Why not leave it then entirely without putting this in if that will suit you?

Mr. IVINS. Mr. Chairman, my objection to leaving it to the Legislature is that I prefer that these officers who are named should act as a territorial board of equalization. Now, if, after trying this experiment, it should prove to be not proper or not a successful experiment, I would be willing then to empower the Legislature to make a change as provided in Mr. Evans' amendment. I want to say that we appropriated about seven thousand dollars for the territorial board of equalization at the last sitting of the Legislature, and I do not believe that the Territory has got value received for it. I think that these public officers can execute this law and fill all the necessities of the case, and if it shall prove that they cannot, then the Legislature will be empowered to make a change. I think that is as far as we ought to go anyhow. If this had been proposed in the committee, I think I should have approved it there, but it was not and we were in favor of the section as it is. I am willing to make that concession, but I do not want to leave it to the Legislature entirely.

Mr. CANNON. Mr. Chairman, the section as reported by the committee is not an unusual one. It is found in a great many of the constitutions of the surrounding states and in other states. I, however, agree with the last speaker, and I believe had this proposal been made in the committee, it would have been adopted by the committee. I favor the amendment offered by the gentleman from Weber, Mr. Evans, and with that amendment I think the section should stand as it is.

Mr. PARTRIDGE. Mr. Chairman, I would like to ask the chairman of the committee where there is any provision made for a board of county commissioners? I have not been able to see where they are provided for?

Mr. THURMAN. That is the selectmen.

Mr. CANNON. I believe they are named in the article on municipal corporations.

Mr. IVINS. It is meant to apply to the county selectmen, they are called commissioners, it means the selectmen.

Mr. JOLLEY. Mr. Chairman, I certainly am in favor of the amendment of Mr. Allen. I remember that this expensive board has been made mention of in the past. It did not give entire satisfaction, and they were selected outside of the capital, but I cannot altogether agree with my friends in Salt Lake that they are apt to be from San Juan or Washington County, or somewhere else that is to be. These officers made mention of—they are more apt to be men that are living here in Salt Lake City or near about, and they would not be capable of judging in relation to the prices and valuations of the property in the more remote parts of the Territory, and for that reason I am in favor of leaving this matter to the Legislature and shall vote for the amendment of Mr. Evans.

Mr. SQUIRES. Mr. Chairman, I am not in favor of the amendment offered by the gentleman from Piute, and I favor the section as it stands, with the amendment offered by the gentleman from Weber, and I want to say here that the amendment which I proposed I shall not now make and for this reason: that the board of county commissioners as I understand it will be paid a per diem and mileage for all their services. Now, it would be unwise and unjust and unfair to require them to serve certain days as a board of equalization without that per diem and mileage and for that reason I shall not put in the amendment, but shall vote for the section as it stands, with the amendment by the gentleman from Weber.

Mr. CORAY. Mr. Chairman, I am in favor of the amendment made by the

gentleman, Mr. Allen. I have observed the methods of these boards of equalization for sometime, and it appears to me the way they equalize the taxes is the county board ascertains who is taxed the highest—whose property is assessed the highest, and they equalize all the rest with it, and their work is done very easily and very simply. That is the method pursued in Juab County at least, and I think it is the same with the territorial board. When they went down through the Territory, they simply raised the taxes in all the rest of the counties to the standard of the county that was taxed the highest. They raised our taxes down there forty per cent—real estate and merchandise, and that is the method they have pursued heretofore, and I am opposed to all such boards. I think the question should be settled in the Legislature.

Mr. EVANS (Weber). Let me ask Mr. Coray a question. That board of equalization of whom you make mention was composed of men living out in the country as well as those living in Salt Lake, was it not?

Mr. CORAY. I do not know where they lived; I could not tell you. I just say that this was the method pursued by boards of equalization.

Mr. EVANS (Weber). That is the fact, that the men that composed that board were selected from all over the Territory—from a number of counties?

Mr. CORAY. I remember two of the gentlemen, one was Charlie Richards and another was Elias Smith, Jr. They were not from the country.

The amendment offered by Mr. Evans, of Weber, was agreed to.

The motion of Mr. Allen was rejected.

Mr. PETERS. Mr. Chairman, I desire now to offer an amendment to section 12. I move to strike out all after the word "county," in line 7, down to the word "each," in line 14, and also to strike out the word "also," and the word "other," in line 14.

Mr. CANNON. Mr. Chairman, I have no particular objection to this being stricken out, but at the same time, I see no advantage. It would simply be provided for immediately by the Legislature. And this is in this identical language in several of the states. For that reason, I am opposed to striking it out. It may just as well be left as it is.

Mr. SMITH. Mr. Chairman, it seems to me that there is no necessity for it whatever. It is just simply legislation pure and simple. The taking of it out does not detract from the section a particle; I am in favor of striking it out.

Mr. CANNON. What objection is there?

Mr. SMITH. Because it is just simply legislation; it can be just as well done in a Legislature as here.

Mr. CANNON. Would it cost any more than it would in the Legislature?

Mr. EVANS (Weber). Mr. Chairman, I hope that motion to strike those words out will not prevail. We have defined the duties of the governor, the secretary, the treasurer, school instructor, and all the other officers. This simply defines what their duties shall be. The State board shall equalize the taxes of the State, the county board shall equalize the taxes of the county; that is all there is to it. It is very brief. It is not much legislation, and if it be termed legislation, we might go back and strike out all the duties for the other officers in this Constitution, which we have passed upon. It leaves it fixed and certain just as it should be and just as it always will be. There is no occasion for a change in that at all.

Mr. FARR. Mr. Chairman, I suggest that we elect men to these offices that have got sense enough to know their duties, without telling them what they are. I move to strike out on that ground.

The motion was rejected.

Section 13 was read.

Mr. SHARP. Mr. Chairman, I move to strike out the word "used," in line 5 of section 11.

Mr. CANNON. I would like to hear the gentleman's reasons for such a motion.

Mr. SHARP. My reason for asking to have it stricken out is that I see no good reason for leaving it in, and I made this motion to bring out the reason for leaving it in.

Mr. CANNON. Mr. Chairman, I would state that the committee had in view more particularly those two words than any of the rest of the section. Our previous sections provide that any property now in the Territory should be taxed, but this "or used" in the Territory was to provide that corporations coming in here, using capital in addition to that which they ordinarily had there should pay a tax on it. It was more especially providing that foreign corporations should pay taxes the same as local. For instance, if a corporation of any kind doing business here with a capital we will say of ten thousand dollars should claim that the balance of the money it had belonged to a corporation in the east and in that way escaped taxation on a hundred thousand dollars, we provide by this the means by which they should pay taxes on the amount they used here, just the same as the local man would pay taxes on the amount he used.

Mr. EVANS (Weber). Is it not also intended that railroad companies using the stock of other corporations in this Territory may be taxed?

Mr. CANNON. Yes, sir.

Mr. EVANS (Weber). Such as Pullman cars and engines and equipment in the Territory used by a railroad company although owned by some foreign company?

Mr. CANNON. Yes, sir; it would cover all property in the Territory. It was taken from Colorado.

Mr. SHARP. Is it not a fact that

railroad companies are assessed so much a mile for the railroad and the equipment?

Mr. CANNON. I am not aware of the method of assessing railroads, but I think in addition to that they are assessed on their equipment, so much for the number of cars they have. It would be evidently unjust in my mind to assess a company which had a hundred cars the same as a company which had two hundred, even if the mileage was the same.

The motion was rejected.

Mr. SHARP. Mr. Chairman, I now offer another amendment, that we insert the words "or persons" after corporations, in the first line of section 11.

Mr. SQUIRES. Mr. Chairman, in view of the fact that section 5 was stricken out of this article in order that the matter of taxing mortgages should be left to the discretion of the Legislature and not made mandatory, I move that section 2 of this article be amended by striking out in lines two and three the words "under the Constitution," and insert in the place of those words, "of this State."

Mr. THURMAN. Mr. Chairman, I do not see any necessity for that amendment. In relation to the taxation of mortgages, which was discussed this morning—and I understand the gentleman makes the striking out of that section the basis of this motion—I take this position, that if to tax a mortgage is double taxation, it is illegal, anyhow, because it is not uniform. If it is not double taxation, it ought to be taxed. This section, as it now stands, provides that all property in the State not exempt under the laws of the United States is subject to taxation. That ought to be so. I say that we cannot indulge in double taxation, as a matter of law, unless we can do away with the principle which provides for uniform taxation. In other words, we cannot say that a man's horse or his cow shall be taxed twice, while some other man's

property shall only be taxed once. So I say the matter is right just as it stands. If to tax a mortgage is double taxation, the courts will settle that. If it is not double taxation, then they ought to be taxed. The sections, as they now stand with that struck out, as it was struck out this morning, it seems to me are exactly right and there can be no question about it.

The motion of Mr. Squires was rejected.

Mr. CANNON. Mr. Chairman, I move to amend section 13, line 3, by adding at the end of the line the word "occupation." At the time this was before the committee the word occupation was at one time considered, and at that time one of the members of the committee, who was an attorney, thought that it would be covered by the other provision. Since that time, in consultation with the same gentleman, he stated that he thought no harm would come from inserting the word anyway, and I believe it should be in there. I believe the State should have the right, if it sees fit, to tax lawyers, carpenters, bankers, and everybody else.

Mr. THURMAN. And preachers.

The motion of Mr. Cannon was agreed to.

Mr. THORESON. Mr. Chairman, in section 3, line 12, I move to strike out the words "municipal corporations."

The motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment to section 3, by inserting after the word "benefit," in line 16, the words "or other like property." This section is designed for exempting certain properties from taxation. There might be some property of a similar nature which ought to be exempt and it is not provided for in the section—something that we have omitted.

Mr. PAGE. What other property do you have in mind?

Mr. EVANS (Weber). I have not any.

Mr. PAGE. That would be likely to come under that head?

Mr. EVANS (Weber). I think all is enumerated there that should be, but there may be property of a like nature which the Legislature might want to exempt, but I would make it of a like nature.

Mr. PETERS. Do you not think this amendment will be more appropriate if inserted after the word "burial?"

Mr. EVANS (Weber). Well, it probably would. That has already been suggested to me. Then, with the permission of the house, I will add it right after the word burial, in line 15.

Mr. CANNON. I think that would be entirely appropriate.

Mr. EVANS (Weber). Oh, yes, that would not be right, come to look at it. I will recede from that and place it as I had it first, because it would be inappropriate after the word burial.

Mr. CANNON. If I might be permitted to suggest, I suggest to the gentleman if he interline it at all that it be after the word "purposes." I do not think there are many other like purposes for burial. If you are going to have "other like purposes," at all, I think it should come after the charitable purposes, in line fifteen.

Mr. GOODWIN. Mr. Chairman, I think after "burial" would be the right place and it would apply to a crematory. I wanted to ask why burial places are exempt from taxation? They are the only ones that do not growl at taxes.

Mr. KERR. Mr. Chairman, while I do not know of any very great reason why this should not be inserted, yet I can see no reason why it should be. That being true, I am opposed to the motion to amend. It seems to me that the proposed section here certainly covered all that ought to be exempt under that section. I can conceive no other kind of property that should be exempt. That being true, I am opposed to the amendment. If the amendment should

prevail, it seems to me the word "and" instead of "or" should be put in. I can see no good that would come from inserting these words.

Mr. EVANS (Weber.) With the consent of my second I will withdraw the amendment.

Mr. CANNON. Mr. Chairman, I move that when we do rise that we report this article and recommend it be placed upon the calendar for third reading.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled public debt.

Section 1 was read.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment to section 1, by adding after the figures one million dollars the following, "including existing indebtedness of the Territory."

Mr. THORESON. I would like to ask a question. What is the amount of the present territorial indebtedness?

Mr. EVANS (Weber). Seven hundred and sixty-seven thousand dollars, I am informed, is the accurate amount. It would leave us a little less than a quarter of a million that we could borrow in the future.

Mr. CANNON. Mr. Chairman, I am opposed to the amendment. I do not think it is necessary at all. The provision is that such debt direct and contingent in the aggregate shall not exceed one million dollars. That necessarily involves the present indebtedness. It could not be construed in any other way as I view it. If it never exceeds a million dollars the debt that we now have is provided for by the ordinance and cannot be repudiated, consequently the section as it stands would mean the same thing as the amendment proposed.

Mr. EVANS (Weber). Then your idea is to limit the Territory, is it, to one million dollars in the aggregate including the indebtedness of the Territory?

Mr. CANNON. Yes, sir.

Mr. EVANS (Weber). Well, then, let us have that certain, because this is

left so uncertain that I fear the new State would incur a million dollars in addition to what it already has. It can do no harm and may result in much benefit.

Mr. KIESEL. Mr. Chairman, I move to strike out section 1.

(No second.)

Mr. SMITH. Mr. Chairman, it seems to me that the section is sufficient without those words. It seems to me it is amply broad. I should vote for the section to remain just as it is.

Mr. CANNON. Mr. Chairman, one reason why I am in favor of leaving it just as it is, we for all time include in there existing indebtedness. I do not think it is capable of a double construction. I would appeal to the attorneys and ask them if there is any one here who feels that this language would not limit it to one million, including the present indebtedness?

Mr. ROBERTS. Mr. Chairman, I wish to say that that is just my doubt—I understood Mr. Cannon to ask if there was any gentleman on the floor who had any doubt in regard to this section, as it now stands, including the present indebtedness of the Territory. I wish to say that I am one of those that doubt and in order that we may be thoroughly and altogether secure from a greater indebtedness than one million dollars in the State, I think that safety requires the adoption of the amendment of the gentleman from Weber. The State may, to meet casual deficits or failures in revenue or for expenses not provided for, contract debts. It does not provide for the assumption of the debt of the Territory as a part of that indebtedness, that it may incur.

Mr. KIESEL. Mr. Chairman, if it was found necessary to incur a debt of seven hundred and fifty thousand dollars with our present population, if we have a population of a million, why it may be found necessary to create a

larger indebtedness. I move to make it three dollars per capita.

Mr. RYAN. Does that include present indebtedness?

Mr. KIESEL. Yes, sir.

The CHAIRMAN. The gentleman will please get it into shape. Get it in writing and send it up to the secretary.

Mr. THURMAN. Mr. Chairman, I favor the amendment of the gentleman from Weber. I cannot construe this language in any other way than to mean that the State in the future may, to meet casual deficits or a failure in revenues or other expenses, not provided for, contract debts to any amount not exceeding a million dollars. That the State we are about to create is given the power to do that, and it seems to me that it is altogether independent of the existing indebtedness. If we want to include existing indebtedness it only requires about two words to get it in there and it is placed beyond all dispute and I favor putting it in.

Mr. CANNON. That is the object of the committee and I therefore favor it also.

Mr. HART. Mr. Chairman, I was going to make the same suggestion that the gentleman from Utah County (Mr. Thurman) made. The use of the word State there makes it uncertain as to whether it shall include the territorial indebtedness.

Mr. KIESEL. Mr. Chairman, I offer the following amendment. Insert after "exceed," in line 5, "shall not at any time exceed four dollars per capita." And strike out one million dollars. Now, Mr. Chairman, if it is found necessary—and evidently it was found necessary to incur a debt of seven hundred and fifty thousand dollars for some 250,000 people, it may be found necessary in the course of time to increase our indebtedness and have corresponding results. I do not wish to see the Territory or the future State handicapped

in case they require certain improvements.

Mr. ROBERTS. Mr. Chairman, I cannot support this amendment that is offered by the gentleman from Weber who just took his seat. I believe, sir, that his argument in support of it is based upon wrong premises also. I notice that in the article on revenue and taxation, I think that as the wealth of the Territory increases you provide for a reduction of the percentage of taxation, because the increase of property would yield a larger revenue, at a less percentage, and instead of thinking that we want to increase our indebtedness or make provisions for increasing the State's indebtedness, with the increase of its population, I think the result should be that with the increase of our population there would come an increase of taxes, increase of the State's revenue, and hence a still less and less necessity for providing for the increase of State indebtedness. It seems to me, sir, that the provision made in the article as we now have it, is much better than upon the basis of a per capita indebtedness of four dollars, and therefore I shall sustain the article as now proposed and amended here in the committee as against the proposition offered by the gentleman from Weber. And Mr. Chairman, I make this point also, that we ought to reduce the indebtedness rather than to increase it, and I think, sir, that the true policy for the new State would be to aim at that object; that as soon as we assume statehood in this Territory, in consequence of meeting the first demands upon the public treasury, that the indebtedness that we then incur ought to be the very highest indebtedness that the State will ever look forward to and that from thenceforward we ought to look constantly to a decrease rather than an increase of the State's indebtedness.

Mr. THORESON. Mr. Chairman, we find also, in section 3, the proviso for

the emergency that the gentleman from Weber referred to. If that should occur that for a specific work or single object it may be increased if the people vote for increasing the indebtedness. And I think that the section the way it reads is plainer. Everybody knows the amount of the indebtedness—one million dollars, but if you say four dollars per capita, why some people will be afraid to increase the indebtedness to that extent and they may vote against the Constitution. If there is a special object that the State wishes to accomplish—some emergency, it is provided for there and it provides for an election by the people on that subject. I think section 1 should be left as it is.

Mr. EICHNOR. Mr. Chairman, I hope the substitute as offered by my friend from Weber, Mr. Kiesel, will not prevail. I do not confess to be much of a financier, but I can learn a little from the surrounding states. I think our debt limit is too high. I think it should be less, nine hundred thousand dollars or possibly eight hundred thousand. If you take our neighbors of which my friend, Mr. Farr, has several times spoken—he stated that some of the surrounding states were in debt. It is a mistake. Utah is more in debt than the surrounding states. The debt limit of Montana is two hundred thousand; the debt limit of North Dakota two hundred thousand; of South Dakota one hundred thousand; of Washington four hundred thousand.

Mr. SQUIRES. Mr. Chairman, speaking about the debt of Utah Territory at present, I understand that there is a bonded indebtedness of seven hundred thousand dollars. There is also a deficiency of one hundred and thirty-three thousand dollars, which will make eight hundred and thirty-three thousand dollars, leaving only a margin for the future State to go into debt of one hundred and sixty-seven thousand dollars; and in view of the fact that we are just starting in as a new State, I

do not believe we have got the limit too high. But I am opposed to the motion of the gentleman from Weber, because I do not think that the rate of public debt should be based upon population. I do not think it is any fair way to look at it.

Mr. KIESEL. Mr. Chairman, I have been convinced by argument that my motion was wrong, and I withdraw it with consent of the second.

Mr. GOODWIN. Mr. Chairman, I only asked for a provision against a possible great calamity. We had a dissertation the other day that because of high taxation the state of Kansas had been and was in so bad a state that people were abandoning their farms; that taxation has been so terrible that the state this year, I believe, is making a debt of one hundred fifty thousand dollars to provide seed for the farmers and to support them until something can be raised out of the ground. Now, suppose such a calamity as that should come to Utah. Suppose by the recklessness of our State officers this new State should find itself fixed with a taxation so high that the crops could not grow, for a couple of years, and there had to be a provision to buy seed and to buy food for the people even by running in debt. Is there anything in this article that will permit anything of that kind? It seems to me a better plan would be to rate the indebtedness at a percentage of the taxable property in the Territory. If it is a hundred millions this year and two hundred millions fifty years from now or twenty years from now, the people might need for some great public improvement for public purposes—a loan of money—wouldn't it be better to put it where every man would say that it was reasonable and let it rest at that? We owe now, as I understand, about eight hundred fifty or sixty thousand dollars. That is, that leaves about one hundred forty thousand dollars to go on, which is plenty under ordinary circumstances,

but we live in a land of cloud bursts, in a land of grasshoppers, a land of drouth, sometimes they come and shut off the water supply; there might come a time when all our lands are under cultivation, when for a series of years such an accident might happen as has happened among these old irrigated communities. I will support the section if that is the best that can be done. I think it ought to be in proportion to the assessed valuation of the property, and I believe there ought to be a provision in there that in the event of a great calamity the people might have the means to extricate themselves. I understand it is a good deal like trying to serenade a deaf and dumb asylum to talk to any such proposition in this house, but at the same time there is a certain pleasure to the musician, even if those in the house do not hear him.

Mr. SPENCER. Mr. Chairman, I move the following amendment to section 1:

After the word "exceed," in line 4, "not to at any time exceed two per cent. of the assessed value of the property in this State." I move to strike out all after "exceed," in line 5, and insert in lieu thereof, "two per cent. of the assessed value of the property in this State." I do not think we should place too many restrictions on the Legislature. I have more confidence in the Legislature of the future than what many members have. I think they can better afford to leave that to the Legislature. In the past there has been an intimation that they were not too good. There is no reason why they should run in debt, unless they are compelled to do so.

Mr. IVINS. Has the gentleman made an estimate to know what the indebtedness might reach under this proposition?

Mr. SPENCER. I understand the assessed value of the property of the State to-day is about one hundred million dollars.

Mr. EVANS (Weber). That would enable us to go in debt about two million dollars.

Mr. SPENCER. That would be the extreme.

Mr. IVINS. Does the gentleman think that we ought to authorize the creation of a two million dollar debt now?

Mr. SPENCER. I do not, and I do not consider this would be authorizing it.

The CHAIRMAN. I beg pardon, but I think it would be in direct opposition to section 8 of revenue and taxation, which provides that the rate of taxation for State purposes shall never exceed eight mills on a dollar.

Mr. SPENCER. Mr. Chairman, that would mean that the tax should not exceed that for one year.

Mr. BOWDLE. Mr. Chairman, I give notice that I want to present a substitute.

Mr. CANNON. Mr. Chairman, I am opposed to the last amendment—that offered by the gentleman on my left. In the first place, I believe that the indebtedness of the State will be quite great enough. The maximum if we reach one million dollars, will give us quite a margin, and you will perceive, gentlemen, that this is only for occasions of failures in revenue. If you turn to section 3, you will find that you provide in that that other debts may be created, if authorized by law, for some single work or object to be definitely specified therein, which law shall provide ways and means for the payment. If we desire to build a capitol, or if we desire to do anything of this character, or if a great calamity should come as referred to by Judge Goodwin, it could be provided for under section 3.

I desire to call attention to the experience of Salt Lake City and her indebtedness, not for the purpose of frightening any one, or any thing of that character, but just to show what the effect was. Salt Lake City at the present time has an indebtedness, ex-

elusive of her school indebtedness, of about two million and a half dollars. I am informed by the city recorder that to show for that she has only a little in excess of one million and a half of actual assets. The balance of that two million and a half has been used mainly in her operating expenses, and I think it should serve as a warning to us. I think we should limit this indebtedness of the State. I desire to call attention simply to one piece of work that she has on hand. Mr. James the other day called your attention to the fact and he said it came under his personal observation; the time this building was originally designed, it provided for \$375,000 or thereabouts. I have in my hand the statement of the cost of the building and it is itemized as follows:

Total cost of main building,	\$777,908.68
Boiler house, including	
boiler plant,	48,482.22
Total amount expended	
to January 31, 1895, on the	
ground surrounding the	
building,	66,142.80
Approximate amount as	
yet unpaid on contract,	8,000.00
Total,	<u>\$900,523.70</u>

I believe that most of that money was well spent in this building. I am not finding fault with that, but I am calling attention to the fact that when any city, municipality, or state incurs indebtedness, there is not always that care that should be used in the expenditure of the funds, and I am in favor of the section as it originally stands, with the amendment of the gentlemen from Weber.

Mr. SPENCER. Mr. Chairman, with the consent of my second, I move that "two per cent of all taxable property in the State," be inserted in lieu of my motion.

The motion was rejected.

The motion of Mr. Evans of Weber was agreed to.

Mr. Bowdle offered the following as a substitute for section 1:

The State of Utah shall not in any manner create any indebtedness including the present territorial indebtedness exceeding one per centum of the assessed value of the taxable property in the State as shown by the last general assessment for taxation, except to suppress insurrection or to provide for the public defense.

Mr. BOWDLE. Mr. Chairman, I am aware that you have just voted down the amendment presented by Mr. Spencer, which provides that the rate should not exceed two per cent. As I understand it the taxable property to-day of this Territory is about one hundred million dollars. The limit under that would be one million dollars. But suppose that we go on as we hope to, prospering from year to year and growing and the time should come that our taxable property would be ten hundred million dollars. With that increased taxation there will come increased necessities for the expenditure of public moneys, and you then would have the means under that section of providing for these contingencies. I still have a little faith (although I confess that they have not been absolutely right at all times) in the coming Legislature and in their doing what would be right in the matter. I do not see why they would be any more willing to run into debt than we are. Their interests will be identical with ours at present, and I cannot see why we should so tie them up and bind them that if the emergency occurs they cannot exercise the powers that might be vested in them for the good of the people, and therefore I am in favor of this section. I may say that this is pretty nearly identical with the section from Wyoming. There is only one or two small unimportant changes in the section.

Mr. EICHNOR. Mr. Chairman, I move to amend line 5 of the section by striking out the words "one million" and inserting the words "nine hundred thousand."

Mr. CANNON. Mr. Chairman, it looks

to me as if this would be making two bites of a cherry. We are very nearly up to that limit now and within the next two or three years it may be absolutely necessary, under State administration, to increase our indebtedness a little. I think it would be unwise to limit it to nine hundred thousand. It seems to me we are splitting hairs. I favor the report as it is.

Mr. ROBERTS. Mr. Chairman, I wanted to speak of the substitute and to express the hope that it will not prevail, because I am of the opinion that the arguments in favor of that, too, are also based upon false premises. The present taxable property of the Territory, which, of course, will be the taxable property of the new State, is about one hundred million dollars. And revenue derived from that amount of property, I am informed, is about two hundred fifty thousand dollars; the revenue for the Territory, which would also be the revenue for the State, at the present rate of taxation. The gentleman offering the substitute suggests that the time might come when our taxable property might be increased probably ten times. Well, if that shall be the case, Mr. Chairman, the revenue of the State will also have increased ten times and hence, less and still less the need of running in debt, and for that reason, I see no necessity for providing for the increase of the indebtedness of the State, since the increased revenue derived from the increase of property in the State will always be sufficient, as I take it, to meet the expenses of the State.

Mr. HART. Mr. Chairman, I am in favor of fixing this by naming some definite sum for the reason that if you have it based upon a fluctuating basis or amount there is never any certainty as to what amount of indebtedness will be created. You will notice the history of the different cities, some of our own in fact in this Territory in particular. I will name Salt Lake and

Logan and there are perhaps some others, who will incur indebtedness and claim at the time that they did not know it was exceeding the amount fixed by the statute for the reason that they did not seem to bear in mind the taxable value of the property at the last assessment, but it seems to me if we fix the debt limit at either nine hundred thousand or one million or any other definite amount, we will have no excuse for passing that limit. I therefore will vote against the substitute and in favor of the original proposition. I believe that it would leave too narrow a margin to work upon if we cut it down to nine hundred thousand, for the reason that we have an indebtedness close onto eight hundred thousand dollars and there would be a large deficiency when the next Legislative Assembly meets, it would be certainly not less than one hundred twenty thousand dollars. I am therefore in favor of putting the limit at an amount that would be reasonable under the circumstances.

Mr. EVANS (Weber). Mr. Chairman, I do not think it is splitting hairs to knock a hundred thousand dollars out of this article. A hundred thousand dollars is not a bagatelle. It is considerable money, and I am in favor of Mr. Eichnor's motion to make it nine hundred thousand dollars, because I believe that will cover the present deficiency. And if I had my way about it, I would not permit the new State to go in debt one dollar in addition to what has already been incurred.

Mr. KERR. Mr. Chairman, I am not in favor of the amendment offered by the gentleman from Salt Lake, or the substitute. The first two years after our admission into the Union will be the most critical period in our history. While it is true that Congress has granted a great deal of land to the State which shall constitute a fund, the income of which shall be used for the maintenance of the public schools and State institutions, etc., it will require

several years to select and locate the lands and sell them and invest the means so that the State will realize anything on the fund. The indebtedness I understand is already in excess of eight hundred thousand dollars. And we are certain that some of the institutions are exceeding the appropriations made by the last Legislature for the maintenance of those institutions. It does seem to me that with the present indebtedness of the Territory there will be a small enough margin even if we place it at one million dollars. I will state, however, that I personally am in favor of keeping the debt at the lowest taxable point, but I do not think it practicable, I do not think it wise for us to place the limit lower than one million dollars. We must remember that the additional burden of maintaining the State government—the public schools, State institutions, the people of the State will have all they can bear without having to be taxed for all buildings that may be required, and it seems to me that a margin of a hundred thousand dollars would be certainly small enough.

Mr. EICHNOR. If you fix this limit at one million five hundred thousand dollars, you will find that in a few years we have reached the limit of indebtedness. The more credit a man has the more he can run in debt.

Mr. CANNON. Will the gentleman permit me a question?

Mr. EICHNOR. I will try and answer; I am not a Napoleon of finance, like you are, but I will try.

Mr. CANNON. I do not understand that there was any proposition for a million five hundred thousand before the committee.

Mr. EICHNOR. No, but I say if you were to fix the limit at one million five hundred thousand, in a few years we would have exceeded the limit. Now, gentlemen of the committee, going from a Territory into a State will not be as expensive as some expect or as some

think it will be. We have reduced the grand jury, in fact we have almost abolished it. That has been a great saving to the Territory. We have reduced the number of jurors, that will be a great saving. The State officers, as the salaries were fixed the other day, will almost be paid out of the fees that will be turned into the office of the secretary of state. Now, I believe in a good old homely maxim, "live within your income." I believe in cutting this down to the lowest notch. I believe and I hope that Salt Lake will see the capitol. But I state frankly here that I hope never a pick will be driven for the capitol grounds again until we are out of debt and can afford to build a capitol. [Applause].

Mr. BOWDLE. What rate of interest is the indebtedness drawing at present?

Mr. EICHNOR. I do not know.

Mr. EVANS (Weber). Five per cent.

Mr. BOWDLE. Seven, isn't it.

Mr. IVINS. I would like to tell the gentlemen that we appropriated seventy thousand dollars for interest on bonds at the last session of the Legislature.

Mr. EICHNOR. This may be a strange position for a lawyer to occupy, to speak about cutting down debts, but if there is misery in private life, gentlemen, it is when a man runs into debt. As my friend Snow says, a man is in hell. You just put the limit high enough on the State of Utah, and instead of attracting people, you detract people. These other states I have cited here—Montana, one hundred thousand dollars; North Dakota, two hundred thousand dollars; South Dakota, one hundred thousand dollars; Washington, four hundred thousand dollars—Idaho has the system that my friend, Mr. Spencer proposed. Their limit is one and one-half per cent of the valuation. I believe in coming down to a mathematical certainty and I believe in fixing it nine hundred thousand

dollars, with all due respect to the financiers on this floor.

Mr. CANNON. Mr. Chairman, if the gentleman is going to have a mathematical certainty, when we have run in debt as much as we have, the bonded indebtedness being seven hundred thousand dollars, and the rest of the indebtedness amounting to about one hundred and thirty thousand, how in a mathematical certainty is he going to limit that indebtedness to sixty-six thousand and add increased expenses here in the office of the United States marshal of one hundred and fifteen thousand dollars, in the secretary of the Territory's office of thirty-three thousand dollars in a year?

Mr. EVANS (Weber). I would like to inform Mr. Cannon that under a State government, we will have no United States marshal at all.

Mr. CANNON. I will call the gentleman's attention to the fact that the Utah penitentiary will have to be maintained by the State. The expense of that, including guards, food, clothing, medical attendance, etc., is forty thousand dollars.

Mr. THURMAN. Mr. Chairman, are we going to start this State government right from the beginning on the theory that we are going to borrow money and incur a bonded indebtedness to pay current expenses from year to year?

Mr. CANNON. No, sir.

Mr. THURMAN. We are discussing here an indebtedness, not a rate of taxation.

Mr. CANNON. At the same time, let me state that I do not think it would be wise at first to increase the rate, so that people would be greatly oppressed by it. I think if we can prevent going in debt, the amount that it has been in the past two years—that I scarcely think that with the most rigid economy we can limit it much under the one million dollar mark and get our State fairly launched.

Mr. HEYBOURNE. Mr. Chairman, I would support the gentleman's motion to limit this indebtedness to the sum he has stated, nine hundred and ninety-nine thousand dollars.

Mr. EICHNOR. No, nine hundred thousand dollars.

Mr. HEYBOURNE. I want to state, Mr. Chairman and gentleman, that this is a matter that is going to be very closely watched by the people. The bonded indebtedness for this Territory to-day is causing them some serious reflection, and while I have regard and respect for the gentlemen who have served in Legislatures in Utah Territory in the past in this matter, I have to state here before this Convention that I see a disposition on their part at every session to increase this indebtedness. I am of the opinion of the gentleman, Mr. Eichnor, who has just preceded me, in this matter, that if this indebtedness was put up at a million and a half dollars, it would be a very short time before that limit would be reached. I am not in favor, Mr. Chairman and gentlemen, of allowing this latitude to the Legislature. Debt, as has been stated here, is something to be regretted, either personally, nationally, or in any other way, and if we want to progress as we expect to, we will have to keep this matter down. The gentleman has stated in this regard that there will be an influx of citizens, there would be an increase and that it would be necessary perhaps to increase the governmental expenses of the State. Well, now, when this influx comes here will be an increase in the revenue and I think that that will answer the purposes and meet the ends necessary, and I say if we want to get a good vote, a heavy vote, next November on this Constitution, let us present it before the people in that way that they do not feel as though this burden had been increased upon them, and let us keep it down. I shall certainly vote for Mr. Eichnor's amendment.

Mr. HART. Mr. Chairman, as I view the question the proposition before the people will be simply this, in starting upon the increased burdens of statehood whether they would be permitted to contract a small additional indebtedness or whether they would be required to make that up by an increase of taxes. Now, I am not in favor of running in debt any more than any other gentleman upon the floor of this house. I am strictly opposed to it, but when you fix it at nine hundred thousand dollars, you are practically giving us no latitude to run in debt. If we had any indebtedness now and some gentleman would propose to fix the limit of indebtedness at two hundred thousand dollars, you would think that was a very small amount, and yet if we had no indebtedness and you would permit your limit of two hundred thousand dollars, you would be giving the State more latitude than you give them now in limiting it to nine hundred thousand dollars. As the situation was last year, we were paying taxes at a rate that necessitated or permitted the running behind of something like sixty thousand dollars. That is the situation to-day. Now, there is either one of two things we have got to do. We have either got to permit a small indebtedness upon starting the State government, or else we have got to largely increase the taxes of the people to begin with. I am in favor of giving them just a little latitude. It will only be about one or one and a half hundred thousand dollars, and I am in favor of giving that much latitude to go on.

The question being taken on the motion of Mr. Eichnor, the committee divided and by a vote of 40 ayes to 34 noes the motion was agreed to.

The substitute of Mr. Bowdle was rejected.

Sections 2 and 3 were read.

Mr. EVANS (Weber). Mr. Chairman, I move to strike out all of section 3 after the word "be," in line 3, and in-

sert the word "created," immediately after the word be. It is said, gentlemen, that the people can always be trusted, and that is in the main true, but there are many times in times of excitement and in times of booms, when some public work is projected or conceived by somebody, and when the Legislature is applied to for money for the purpose of accomplishing that work, the Legislature would pass a law to be submitted to the people in these times of excitement, and possibly the debt be created. My idea about running a public government or state government is just like running an individual business. I believe that it ought to be got up within its means, that we ought not to incur any indebtedness for public buildings or other improvements, except where there is sufficient revenue to carry on that improvement, without going into debt for it. I believe that it is well enough just to stop right where we are and say that we will incur no more indebtedness. Now, if the Legislature should submit a law to the people, it has got to be published in the newspapers for a period of three months next preceding the time it is to be voted on. There is a large expense at once for the purpose of finding out whether the people want the debt or not. I think that if we understood that we could not go in debt at all for any of these public purposes, but that we simply had to live within the revenues derived by way of taxation, that would be the very best and most happy state of affairs that could exist in our new State. I shall therefore favor the striking out of this section.

Mr. KERR. I would like to ask the gentleman from Weber a question. If all of section 3 should be cut out, if sections 1 and 2 are not explicit on that question? That is, would it be possible to contract any debt other than that which is specified in sections 1 and 2, if the entire section 3 would be cut out?

Mr. EVANS (Weber.) I think, probably, that would exclude any indebtedness, but I would like an expression, however, in the Constitution so that there would be no question about it; that that would be our only public indebtedness—that no other debt shall be created.

Mr. CANNON. Mr. Chairman, I am opposed to the motion to strike out. In case the State at any time desires to take up any work or make appropriation for some specific purpose, I think it is a wise provision, when people authorize it, by their vote, to allow the people to incur such indebtedness. There is no single individual in the State, unless it happens to be a very wealthy man, with good securities, who can borrow money at five per cent., and yet the State can borrow it at that rate. It is unwise, in my opinion, to require the State to gradually collect money and keep it in its treasury until it has money enough on hand with which to erect the buildings. If they want to erect the buildings, or to perform any great public work, that requires the expenditure of from one hundred to two or three hundred thousand dollars, it is quite usual for the State to be required to expend such sum, either for its educational institutions or for the capitol building—and I maintain it is unwise for the people to be required to pay taxes when they, in procuring the money for that tax, have to pay a high rate of interest sometimes in borrowing themselves, more than is necessary for the actual expenses; and to gradually accumulate that money until they have enough to build a building; unless they pursued that policy, if the gentleman's motion prevails they never could undertake any great public work; but by this section, if the people can authorize the borrowing of money for some purpose, that money may be borrowed, but it limits it; first, stating that it shall specifically define what the debt is for; and, second, must provide

means by which that debt will gradually be paid; and, third, that it cannot be assessed at all until it has been authorized by a vote of the people who shall vote upon it at the election. I think this section should remain as it is. For the benefit of Mr. Eichnor, I will say it comes from Washington verbatim, I think.

Mr. EICHNOR. I will support it.

Mr. ROBERTS. Mr. Chairman, I hope that the amendment to strike out a part of the section indicated will be favorably considered. I hope that the section will be amended as proposed, and I think it is necessary that it should be, in order that this section may be in harmony with the section that was passed in the legislative article the other day, providing that the credit of this State should not be used in aid of private enterprises. I believe that was the principal substance of the section that was passed here in the legislative article the other day. This section, as it now stands, is equivalent to using the credit of the State for private purposes, provided that the matter be submitted, as a separate question, to the people and they vote in favor of it, and in order to maintain intact the principle that was won here the other day, on this floor, that the credit of the State should not be used in aid of private purposes; I believe that this part of the section indicated should be stricken out, and that the principle ought to be asserted right here that except debts specified in sections 1 and 2 of this article, no debt shall hereafter be created in the State.

Mr. CANNON. May I ask the gentleman a question? Provided that in any year it shall be found necessary to build a building costing say three hundred thousand dollars, would you advocate taxing the people sufficiently in one year to build that?

Mr. ROBERTS. No, sir; but I would favor getting out of debt first and then we would have a margin upon which to operate.

Mr. CANNON. I would like to ask how you could have a margin?

Mr. ROBERTS. By the revenue accumulating in the treasury.

Mr. CANNON. You would keep that revenue idle in the treasury until you had sufficient?

Mr. ROBERTS. I do not suppose it is necessary to keep it idle. If the State was building a capitol, it would not have to pay the entire cost of the structure in one year or two years.

Mr. CANNON. I would like to call the gentleman's attention to the fact that no use can be made of public funds by any officer entrusted therewith.

Mr. ROBERTS. Under appropriations of the Legislature it could be used.

Mr. CANNON. It could be loaned?

Mr. ROBERTS. No, sir, but used for public purposes.

Mr. CANNON. I would like to know in what way.

Mr. ROBERTS. I do not see any particular difficulty in seeing how it may be used. We will suppose that the State has on hand in its treasury fifty thousand dollars. It might be appropriated for the purchase of the capitol site, we will say, and if another year it had a hundred thousand dollars, it could begin the structure, and then year by year appropriate the revenue as we appropriate revenue for the sustaining of our public institutions year by year, until the public work was completed. Or, it is suggested, if we shall be fortunate enough to pay this present indebtedness of seven hundred thousand dollars or eight hundred thousand dollars off, we would then be able to withdraw in the limit use the credit for such purposes as the gentleman speaks of.

Mr. JAMES. Mr. Chairman, I did not intend to make any remarks, but this matter seems to be a general sort of a debate. I suppose we all might as well take a hand in it. The mistake in my opinion that gentlemen are making regarding this matter is forever tying up

the hands of the Legislature. Now, gentlemen do not stop to think that conditions may arise here that are beyond the control of mankind to protect the people. I had a talk not long ago, Mr. President, in your presence, with a gentleman that dug the first ditch that was taken out of City Creek canyon, to put a little water upon a few potatoes, the first ever planted in this valley. That gentleman made a statement to myself, and others that were present, that from where the Templeton hotel stands now to near where the Knutsford hotel stands now, after the ditch was dug, the entire City Creek in the month of July was turned into that creek, it took two days to reach that little potato patch. Now, that was the condition of our water supply at that time. Now, I say to you, gentlemen, suppose that condition should come back upon our people, what will be the result, what will be the duty of the people? Why should you have your hands tied? Why, the duty of the people will be to start in and build reservoirs that will cost a million dollars in this Territory at once and husband up every bit of water that is now running away to waste during the long winter months and the season of the year when you have no use for it for irrigation. I only mention this for illustration. It may happen. You do not know any of you but it shall. Why should we be so particular about forever tying up the hands of the Legislature and forbidding the people controlling their affairs hereafter? I am sure I have confidence in the people that they will elect legislators that will take care of our affairs and look after them. I am glad I am not a candidate for the Legislature, because I do not think there will be any laws to make for the next twenty years or more after this Convention gets done.

Mr. VARIAN. Mr. Chairman, I want to ask just a question for information. The chairman of the committee prob-

ably can reply to it. What is the purpose of this article in the event of the payment by the State of the seven hundred thousand dollars now existing indebtedness? Will it not leave the State with the power to re-contract a million or nine hundred thousand dollars indebtedness? Is that the intention of it? As far as I read this—of course I am not familiar with it in the sense that I ought to be, perhaps, but I ask for information whether there is any provision now in this article that would provide for the retiring of this seven hundred thousand dollars of indebtedness? I judge from the debate that the intention of the committee was to limit the State in the contracting of new indebtedness to the sum of two hundred thousand dollars; that being in excess of the amount for which the State shall become liable on the old territorial indebtedness, but it occurred to me while listening to the gentlemen and reading this over that there might be a question as to what the power of the State would be in the event of these bonds being paid. I presume the territorial bonds are to run fifteen years, are they not—a number of years anyhow, and of course it will be incumbent upon the State to provide for the taking up of the bonds when they shall mature.

Mr. THURMAN. Would the gentleman permit me to just read a line I have here as an amendment that I propose, and see if it meets what you have in mind?

Mr. VARIAN. I will say to the gentleman very frankly, I have not anything very clear in mind, except that one point.

Mr. THURMAN. With your permission, I will read the line.

The State may, to meet casual deficits or failures in revenue, or for expenses not provided for, contract debts, and such debts, direct or contingent, in the aggregate, shall not at any time exceed one hundred and fifty thousand dollars, not including present indebtedness.

Mr. VARIAN. It does not strike me now that that covers the question that I have in mind. Perhaps I do not make myself clear. I will ask the chairman of the committee. Here we have seven hundred thousand dollars indebtedness represented by territorial bonds that will be paid eventually. Here you have a power to create an indebtedness granted and also limited by section 1 of the article to nine hundred thousand dollars. If we are to assume that the seven hundred thousand dollars in bonds are never to be retired, but are to be continued from year to year and be replaced by new bonds, then it is quite clear that the State is limited to two hundred thousand dollars additional indebtedness. But what I want to know is, when you pay that seven hundred thousand dollars, is the limit still open for the full nine hundred thousand dollars?

Mr. IVINS. May I ask Mr. Varian a question? I would like to know how Mr. Varian interprets—whether he does not interpret it to mean that after the present indebtedness is paid, if the State may incur an indebtedness of nine hundred thousand dollars?

Mr. VARIAN. It does not strike me that way. But as I said before, I would not presume to discuss it now, without looking it over further.

Mr. IVINS. That is the view I have taken.

Mr. CANNON. I do not know that I would be able to give an interpretation of it other than that which would be conveyed by the reading of the language contained in it. The section as adopted by our committee was adopted by a full committee. There were all fifteen of the members present, I believe, and no objection was raised at that time and it was designed to cover more particularly our existing condition than for the future.

Mr. VARIAN. Do not understand me as raising an objection. I simply wanted to know what the idea of the

article was on the part of the committee.

Mr. CANNON. I presume it would be provided that they could at any time, if they needed to, spend the amount of the revenue for a deficiency, but there is a provision, I think, in our revenue article that would limit this.

Mr. EVANS (Weber). Mr. Chairman, I do not believe there is any doubt but what the section would permit a limit of nine hundred thousand dollars at any time. It is clear from the expression of the language (reads section). In other words, we can keep our debt limit to nine hundred thousand dollars all the time. I do not believe that it is right to do that. I think the article, after it shall have been completed, ought to arrange for the payment of this debt, and put a very much lower limit than that which the section now provides, because if we keep it up at nine hundred thousand dollars at five per cent. per annum interest, the new State would have to pay just forty-five thousand dollars a year interest alone. Well, that is a condition of things that is not desirable. It would be very much better to get out of debt and take the money we would pay out for interest and put it into substantial improvements at home. So that the section will undoubtedly be amended if it pass the amendments that have been proposed, so as to make a lower limit when this indebtedness shall have been paid.

Mr. CANNON. I desire to call Mr. Varian's attention to section 10 of the article on revenue, passed this morning, which provides what appropriations and expenditures may be made, and I do not think that a debt could be incurred under section 10—

Mr. HART. Mr. Chairman, I am in favor of the motion of the gentleman to strike out part of the section. If the section remains as it is you virtually defeat the purpose of the limit you first placed. I am in favor of placing the

limit there, whatever it may be, nine hundred thousand or a million, or whatever is finally determined upon, and in that way having some limit to the amount of indebtedness. If this section goes in you have no limit, because you can bring on first one purpose and then another and increase the State debt in that way.

Mr. CANNON. The purpose of this is not the same as specified in section 1.

Mr. HART. It may be and may not. A special debt may come in and be paid out of the general fund. If this provision goes in you will have first one purpose and then another voted on specially by the people. Now, the representatives in the Legislature are supposed to represent the views of their constituents. They are not supposed to vote an indebtedness unless their circumstances demand it, and when you submit it to the people you do scarcely more than submit it through their representatives in the Legislature. I say that if we have a limit on the people's representatives in the Legislature you should also have a limit upon the people themselves.

The CHAIRMAN. The question will recur upon the amendment of the gentleman from Weber to strike out all after the word "be." in line 3.

Mr. KIESEL. Mr. Chairman, I hope that motion will not prevail. I think the effect of it will be to stop any internal improvements that may be needed. I think the time will come when large amounts of money will have to be spent and raised otherwise than from revenues or taxation, for the purpose of creating reservoirs and furnishing water for the lands which the general government will give us. Possibly we may want to connect this part of the country with Dixie some of these days.

Mr. HAMMOND. Yes.

Mr. KIESEL. Build good roads with San Juan, perhaps. For all such purposes I do not think we can depend on

revenue entirely, and inasmuch as it will be left to the people to vote upon in future Legislatures, and I think that is safe to do. I do not think we are the quintessence of everything—that we have all the knowledge. I think those that come after us as legislators will also know a little of what is to be done and I am not in favor of tying their hands and handicapping this Territory as you contemplate doing by striking out that part which my colleague from Weber suggests.

Mr. ALLEN. Mr. Chairman, some of the members on the floor have not been satisfied and want to tie the hands of the Legislature and they have done that to quite an extent. Now, they are not satisfied and want to tie the hands of the people and say that you people shall not do with your means what you wish to do. When we place ourselves above the people and say you shall not use your means as you please, I think we are coming to a pretty pass.

Mr. THORESON. Mr. Chairman, I think we have notified the people that we expect to raise the rate of taxation from five mills up to eight and that will increase the revenue of our State. We also notified them that we will keep them in debt forever to the tune of nine hundred thousand dollars and I think that ought to suffice, and the balance should be stricken out. I favor the striking out.

Mr. LAMBERT. Mr. Chairman, I have listened here patiently to a great many remarks about our future Legislatures. I have heard slurs thrown out that we cannot trust our Legislature. In the language of the gentleman from Piute, now they want to insinuate that we cannot trust the people to handle their means. I think we ought to leave this as it is and leave the people to choose what they will do with their means and leave the Legislature untrammelled in this matter.

Mr. THORESON. You would then

suggest that we ought to leave no limit to the indebtedness?

Mr. LAMBERT. I did not state that at all. We have put a limit to the indebtedness.

Mr. HART. I would like to ask the gentleman one question. If the Legislature or the people are not to be limited or tied up in any way, what is the use of making a constitution? Is not the very purpose of a constitution to put a limit on the people?

Mr. LAMBERT. I presume it is, but have we as constitution makers the right to tie up men and tell them what they shall do with their finances in the future?

Mr. HART. Isn't that what we have been doing all the time?

Mr. BOYER. Mr. Chairman, I wish to state that I am always in harmony with my friend from Weber (Mr. Kiesel), when he is on the right side, and I certainly take him to be on the right side of this proposition. I believe the proposition of leaving this section as it now stands is right; that it comes right from the hearts of the people. When the hearts of the people are desirous of making an assessment upon themselves, they should have the right to do so. It comes home locally and to the State and I am in favor of the proposition of the section to remain as it now stands.

Mr. SMITH. Mr. Chairman, I trust that the proposed amendment will not prevail in this proposition. While there might be reasons why we would desire to curtail the Legislatures or curtail the county courts or town councils, it strikes me that this proposition is a clear submission to the people taxing themselves by their vote. I do not think this body of men want to tie them up so that they cannot do it. So far as I am concerned, I am fully of the opinion that the section better remain as it is in case of a contingency arising that this proposition may be submitted to them, and the results in my judgment

would prove just what would be desired. If the people wanted it they would vote for it; if they did not want it they would vote it down.

Mr. BOWDLE. I want to ask the gentleman from Weber (Mr. Evans) a question. If your amendment would prevail, the section as it stands, would not it preclude the Legislature ever granting a bounty to any enterprise?

Mr. EVANS (Weber). I do not think this section has any thing to do with bounties. I would like to answer that a little further. Ever since I have been in this Convention, in committees, and every place else, everything that has ever been done by your side of the house that I have the honor of being connected with has always been questioned in the same way that the gentleman questions me now. They throw up their hands in holy horror at once and say, "Is not there some bounty propositions in this section? Won't this cut off a bounty? Will it prevent us from giving the public moneys to private institutions?" There is nothing of the kind intended this section.

Mr. BOWDLE. Now, I ask the other question. The only way that you could grant a bounty would be either to pay it in advance or agree to pay it when the work was done. If this section should stand as you propose to amend it, would not that preclude the Legislature from making a contract to pay a bounty?

Mr. EVANS (Weber). Why, bounties, as I understand it, are appropriated right out of the treasury. The way it already stands you could not make a contract or lend the aid of the State or town or any political subdivision of the State for a bounty or for any other purpose of that kind. That proposition has been settled. But the other question of bounties is not included here at all. I am sorry that it should have been suggested. A bounty is by an act of the Legislature which appropriates a certain amount of money right out

of the treasury from the taxes of the people at once. I do not think the gentleman would want to bond the new State for the purpose of creating a bounty. If the State is not able through taxation to give bounties out of its treasury, it certainly does not want to borrow money for that purpose, does it? Is that your idea, Mr. Bowdle?

Mr. BOWDLE. No, sir; that was not my idea, at all.

Mr. EVANS (Weber). This is a proposition to borrow money.

Mr. BOWDLE. If you will allow me to answer the question, I will answer it. If this section should be amended as you want it that no kind of an indebtedness, except as provided in sections 1 and 2, could be created by the State, no obligation to pay anything except as provided by those two sections; now suppose the Legislature should say, "We will pay to any enterprise that may be established a bounty." In that event, wouldn't that be an obligation, and wouldn't it be precluded by this section?

Mr. EVANS (Weber). I do not think the gentleman understands the section at all.

Mr. BOWDLE. I think I do.

Mr. EVANS (Weber). This section is to preclude the State from incurring any indebtedness even by the vote of the people. It is not designed to prevent the giving of a bounty out of the treasury, for any purpose which the Legislature may design. But it is designed to cut off indebtedness, even though the question for any particular purpose may be submitted to the people. Now, I want to say a word or two further in respect to that matter, and I believe the chairman of the committee on revenue will agree with me that this is designed not for the purpose of aiding private enterprises at all; there never was any such suggestion thought of in the committee, but whenever the State desired to do some-

thing—engage in some building or the construction of them, such as the building of a capitol, or the erection of a university, or a school, or something for public purposes, that the State might go in debt in addition to the limit of indebtedness named in the first section, but not without first having submitted it to the people. Am I right about that, Mr. Cannon? Was not that the purpose of the section?

Mr. CANNON. I will state that certainly was the purpose. I do not understand the object of the gentleman in now proposing an amendment, because I distinctly understood that he favored the article and the section.

Mr. EVANS (Weber). We made no minority report at all. As I stated this morning, we got along very nicely. There was nothing of a political nature in it. It is a question whether we will saddle public indebtedness on the people in the future. My own idea is to prevent it and save the interest which we will otherwise pay.* Keep it at home and make our improvements as we go along. Let our improvements be more gradual and more permanent and without a heavy debt being saddled on the new State. That is the only purpose of it. That I believe ought to be accomplished in the way suggested. Whenever a gentleman on our side of the house or on the other suggests this is of a political nature, I think there must be some mistake about it, because there can be nothing of that kind in this section.

Mr. CANNON. I would like to ask the gentleman whether in his opinion, if a building costing two hundred thousand dollars was to be erected, whether it would be good policy to borrow two hundred thousand dollars and pay five per cent. interest thereon and erect the building and finish it, so that it would be protected from the weather, etc., or whether it would be good policy to build it at the rate of say fifty thousand

dollars a year and leave it unprotected and unfinished in that form?

Mr. EVANS (Weber). I forget how long they were building the State capitol at Albany, New York, but I think it was somewhere in the neighborhood of twenty years. They builded it from the surplus taxes, without any bonded indebtedness, and it is one of the most handsome capitols ever built in the United States. It equals, if it does not excel, the great capitol of the United States, and that great state is not in debt one dollar to-day. But my idea is simply to prevent that thing. You people here in Salt Lake, or the people in Ogden, or the people at Provo, if it is left open, will importune the Legislature and say, "Let us go to the Legislature and get them to submit to the people the question of building a capitol, or a school, or a university. We are in a heavy center of the population, and we will get all the votes at least in the locality where the institution is to be erected." And probably the balance of the Territory will pay little attention to it, and the first thing you know we will have a debt of that kind saddled upon the people and they will hardly realize how it occurred.

Mr. GOODWIN. May I ask the gentleman a question? If your amendment passes, suppose an emergency should arise in the Territory that the farmers throughout the Territory would need fifty thousand dollars to buy seed, wheat, and food, to carry them over until another harvest, how could they get the money if your amendment passes?

Mr. HALLIDAY. Get it out of the Tithing Office. [Laughter.]

Mr. GOODWIN. Mr. Chairman, I move that the gentleman be put out.

Mr. EVANS (Weber). The gentleman from Utah has answered the question. I want to answer the question by saying this: That such a condition of things we hope never will exist. In cases of public calamity, in cases of ab-

solute necessity, no law is known and we would be able in the face of the Constitution to meet a contingency of that kind if such a calamity should occur.

Mr. GOODWIN. Excepting the cases specified in sections 1 and 2 of this article, no debt shall hereafter be created.

Mr. EVANS (Weber). That is my purpose. I do not want any other debt contracted, except this nine hundred thousand dollars.

Mr. MURDOCK (Beaver). I think this is a very important question, gentlemen, and I think there is a very great deal of mistrust manifested in the coming Legislatures, which I think is wrong—not only the Legislature, but the people. This provides that the people may order an indebtedness if they see proper, and to tie up the Legislature and to tie up the people, I think it is very incorrect, and I hope that the amendment that is proposed will not prevail. I think that should be left open, for the fact that we are none of us prepared to tell what the future may develop in this country. We are in, as it were, almost untried to a very great extent in the resources of this country, and we might be very sorry, gentlemen.

While I admire caution and economy as has been exhibited by many speakers here upon this floor, I admire that. I have always admired it, but we cannot tell what the future will develop, and hence I think it would be very safe to leave the section as it is, and if anything should arise in the interest of the people that they would feel it necessary for them to vote upon this question, and give the Legislature the privilege of creating an indebtedness that would be a general good; we understand this, that credit is money. It may be abused, but I think the credit of the State should not be impaired by laying an embargo on it, so that it could not be used by the people. I think the people generally are judicious. They are sensitive upon indebtedness, and while

I very much admire the feelings that have been exhibited by the speakers in regard to economy and holding indebtedness very closely, yet I think this is taking a step further than we should be guaranteed in doing. We are here to lay the foundation of a State, of course, but to tie the hands of the Legislature and to lay a restriction upon the people—it is their property. The credit of the State belongs to them, as your credit, as my credit belongs to myself, and I may use it as I see proper. I hope that the amendment will not prevail.

Mr. PRESTON. Mr. Chairman, I had not intended to say anything on this subject, but since my friend from Beaver has talked, I will have to say that I cannot agree with him at all; that many of us on this floor here would have been glad to have had some law or something to have prevented us from going into debt quite so much as we are personally, and I think we ought to have some restriction to keep this new State that we are organizing from going into debt. We ought not to go into debt nine hundred thousand dollars. After we get the present debt cleared off, three hundred or four hundred thousand dollars is all the limit that we should have to go into debt. We can build reservoirs without money. We have done it. The people should build those reservoirs and then they would own them themselves. They should build their water ditches, then they would own them themselves. Capital would not own them, and be taxing them from year to year to pay interest.

Mr. CORAY. Mr. Chairman, I do not think we need worry over this proposition. The women will undoubtedly vote on this question. If there is any public debt proposed, they will be called upon to vote on it, and I think they are generally economical. I think there is no danger in the section whatever.

Mr. VARIAN. Mr. Chairman, I have

about reached the conclusion since hearing the gentleman from Weber that the result of his amendment would be to deprive the State of the power to go into debt to erect public buildings. Is that the understanding of the gentleman from Weber?

Mr. EVANS (Weber). Yes, sir.

Mr. VARIAN. I want to call attention to the first three lines in section 1 with a view to suggesting that the power to create indebtedness there is limited to casual deficits or failures in revenues, which are the same thing, or for expenses not provided for. Now, expenses, I apprehend, mean in that sense and in the context here the current expenses of maintaining the State government. It is a question whether it would include the building or erection of State institutions. If that is so, this nine hundred thousand dollar limit only accomplishes this purpose, it permits you pay off the existing indebtedness of some eight hundred and twenty thousand dollars and to incur an additional indebtedness of some eighty odd thousand dollars for the purpose of meeting casual deficits and paying expenses. Now, if that is the true construction of that section, what is the purpose in prohibiting the State in section 3 from providing for other necessary matters, such as erecting buildings? If that is the gentleman's purpose, then he understands the construction of section 1 as I do.

Mr. EICHNOR. Mr. Chairman, I look upon section 3 that it has the same force as an amendment of the section. The Legislature can propose to amend section 1, which we passed a little while ago, and submit it to the people and the people will vote upon it. I think section 3 is in the same line as the article we passed sometime ago to amend the Constitution. Leave it to the people.

Mr. KERR. I would like to ask the gentleman from Salt Lake a question. If section 3 is as you have just stated, why not leave it out entirely? That is

already provided for in the section on amendments. If the people of the State desire to contract a debt in excess of the nine hundred thousand dollars and any additional debt under the provisions of section 2, then an amendment to these sections can be submitted to the people and it is provided by the people. Then, if they are as you stated, why not cut it out entirely?

Mr. EICHNOR. Mr. Chairman, I think the people would have the power to raise the revenue, but if the purpose was distinctly stated as this article provides, they would be more willing to vote for it.

Mr. CANNON. Mr. Chairman, answering Mr. Hart's question, I would call attention to the fact that it would require two-thirds of the Legislature to propose an amendment to the Constitution, whereas in this case the Legislature itself can propose the item and submit it to the people.

Mr. SQUIRES. Mr. Chairman, I might be in favor of voting for this amendment of Mr. Evans if it were not that he has already stated that later on he intends to offer an amendment providing that the debt limit of nine hundred thousand dollars shall be materially reduced after the bonded debt of the Territory or State has been taken up. That will leave us no margin whatever for any public buildings we might need, and I believe that this matter should be left just as it is in this section.

Mr. ELDREDGE. May I ask the gentleman one question? You understand that from this section they would be authorized to use any part or portion of the amount herein permitted to be created in a building?

Mr. SQUIRES. That is not specified. I understand from this first section that as fast as the bonds are taken up other indebtedness can be incurred to the amount of nine hundred thousand dollars for any purpose which the Legislature may vote.

Mr. ELDREDGE. I understand this section limits it. I understand from this section that it limits the purpose for which that money may be expended—to meet casual deficits or failure in revenue, or for expenses not provided for. Now, it is simply limited to those three sources. It can be only applied in whatever may be set forth in this particular section and not that it may be used for anything that the Legislature might see fit, which was not included in this section.

The question being taken on the motion of Mr. Evans, of Weber, the committee divided and by a vote of 32 ayes to 50 noes, the motion was rejected.

Mr. ROBERTS. Mr. Chairman, I move to amend section 3, in line 5, by inserting after the word "single," the word "public," and after the word "or," the words, "other public." I take it, sir, that the principle that was asserted and discussed on this floor a short time ago to the effect that the credit of the State should not be used for private purposes, ought to be protected in this instance. I do not think it necessary to discuss the merits of these amendments at length, as I believe that a recognition of the principle then discussed and accepted by the Convention will be reasserted in this instance, as I conceive that it only provides that the credit of the State shall only be used for public purposes and not for private uses.

Mr. EICHNOR. Does not the section as it was passed day before yesterday make that entirely unnecessary? What is the use of duplicating this Constitution?

Mr. CANNON. There is none.

Mr. KERR. Mr. Chairman, it seems to me that the amendment proposed by the gentleman from Davis is not necessary. I think the amendment that was proposed and carried the other day in the article on legislative covers this. I do not think it possible for any appropriation to be made or for any debt

to be contracted for any other than public purposes. I do not think it is necessary at all.

Mr. ROBERTS. Mr. Chairman, the explanation of the gentlemen on that subject that it is clear to their minds that the matter is covered by the section passed in the legislative article—with the consent of my second, I withdraw the amendment.

Mr. HART. Mr. Chairman, I move to strike out the word "three," at the end of line 20, in section 3, and insert in lieu thereof the word "two;" that will make it conform to the publishing of all amendments to the Constitution.

The amendment was agreed to.

Mr. SQUIRES. Mr. Chairman, I suggest a slight amendment to section 3, by striking out the words "for and against it."

Mr. THURMAN. Mr. Chairman, I want to call attention to that. The question is whether this does not require it to be submitted to the people and not to the taxpayers if it is to create a public indebtedness, and we are elsewhere talking about only having taxpayers voting on a proposition of that kind—I merely call that to the attention of the Convention.

Mr. GOODWIN. Mr. Chairman, I think it is fixed in the next section.

Mr. THURMAN. Well, if it is, then my remarks have no application. I have not compared them.

Mr. HART. Mr. Chairman, why not let that stand? This voting is to be done at a general election. It may be, some who will vote for the general officers will not vote either for or against this proposition, and if this is stricken out, why it might be construed that it would require a majority of all those voting at the general election. That no doubt would be the construction, whereas the proper construction, I take it, would be a majority of those voting upon that proposition, either for or against it. I am opposed to the motion to strike out.

Mr. SQUIRES. Mr. Chairman, I withdraw the amendment.

Sections 4 and 5 were read.

Mr. THORESON. Mr. Chairman, I have an amendment to section 5, by striking out "or other municipal corporations," and inserting "or" between "town" and "school," in line 1.

Mr. THURMAN. Mr. Chairman, I am opposed to striking out "or other municipal corporations," and it ought not to have been struck out of the section that we struck it out of in the revenue act, because there may be municipal corporations not included in these names specified. For instance, a village is not included here at all. Now, what harm does that do? And it certainly saves any possible municipal corporation that exists now or that may hereafter be created.

Mr. FARR. Mr. Chairman, I make a motion that section 5 be stricken out. I will now give my reasons, which will be in keeping with my vote to sustain the gentleman from Utah County's motion to strike out all of section 3 after the word "contracted," but my reason for that was because I intended to move to strike out all of section 5, because section 4 covers everything that is necessary. That is contained in section 3, that did not get struck out, and covers everything that is necessary in section 5. The idea of authorizing people to go to work and tax five per cent.—why not say fifty or a hundred per cent. and have some liberal money? People will be taxed to death the way they are to-day. I think section 4 provides everything that is necessary in this article on that subject. If the people vote for it, then they have that permission, consequently I am certainly in favor of it. I do not wish to make any further remarks on it—strike out the whole of section 5.

Mr. SPENCER. Mr. Chairman, I would like to ask the chairman of the committee one question. I understand Salt Lake City now has already issued bonds for about six per cent. How will

this interfere with the rights of Salt Lake City or any other municipal corporation that have exceeded five per cent?

Mr. EVANS (Weber). It cannot affect it.

Mr. CANNON. It would not affect existing indebtedness, but it would not permit an increase except as herein provided, and I think they should not increase their indebtedness. All existing indebtedness, if you will look at section 8, is provided for in this article.

The motion of Mr. Farr was rejected.

Mr. SQUIRES. Mr. Chairman, I suggest that instead of striking out "municipal corporations," we strike out the word "city," then municipal corporations will cover the organized villages, and when the proper time comes I shall vote to reconsider the motion we passed this morning in section 3 of the article on revenue.

Mr. EVANS (Weber). Mr. Chairman, all the charters that exist in the statutes to-day are called cities—every one of them—cities is a more appropriate word than municipal corporations. They were all designated as such. I am in favor of striking out.

Mr. CANNON. Mr. Chairman, I do not think that it is consistent for us to vote against striking this out now, when we, this morning, voted to strike out the words, "municipal corporations." I will say the committee had this in view. The objection that has been raised by the gentleman from Utah County was one which was raised in the committee and we thought it better to have those words even if they were redundant than to strike them out and have afterwards some difficulty come up. I think it would be better not to disturb them now and would be better to reinsert them when we come to the third reading of the other article.

The motion of Mr. Thoreson was rejected.

Mr. EVANS (Weber). Mr. Chairman, I move an amendment to section 5, line

6, by striking out the word and figure five and add in lieu thereof the word and figure three, so that it will not exceed three per cent. I want to call the attention of this Convention to one fact, as this article stands any municipal corporation can go in debt ten per cent. because for some purposes they can go in debt five and then for other purposes, supplying the city with artificial lights and otherwise, they can go in debt five, making an aggregate of ten per cent—an appalling amount. We have had a little experience about these things right in this Territory, and I am going to relate a little that occurred in Ogden. The present law of Congress limits these cities to four per centum of the taxable valuation of the property. We reached that limit very soon. There was an effort made at the time—a good many people agreed to have the Congress of the United States remove that limit and give us an eight per cent. limit. The Congress of the United States did pass it. It went through both houses of Congress. President Harrison, then in the chair, vetoed it, his first official veto.

A good many people were somewhat incensed over his veto, because they thought that it was against progress, that it was quite necessary to borrow a little more money to go into debt about eight per cent. instead of four, but I tell you, gentlemen, that the wisdom of the President of the United States in the veto written to that bill has since proved to be correct, and I believe that the people of Ogden to-day recognize the fact, although they were somewhat incensed over it at the time. We would have had an indebtedness in Ogden to-day had it not been for that veto of something in the neighborhood of one million dollars. To-day the city is burdened and tax ridden until it is scarcely able to stand up under the burdens and you permit us to add another per cent. upon the taxable value of our property there, and then let us

add in addition to that, five per cent. for lights and sewers and furnishing the city with water, and we will be saddled with just six per cent. more than we are to-day. I do not believe the people of the city want it. I do not believe that Salt Lake City wants it or ought to have it. I do not believe that any municipality in this State desires a limit as large as that. Why it would simply permit the cities of this Territory to saddle themselves with an indebtedness that they never could shake off. They simply would have to be sold under the hammer of the taxgatherer or the sheriff for the indebtedness which would be incurred. I see my colleague from Weber is somewhat uneasy and desires to get up and make a reply. He will have the opportunity. I have said nothing yet with respect to him.

Mr. KIESEL. No.

Mr. EVANS (Weber). I admired his patriotism at the time he secured the act of Congress, but subsequent events have conclusively shown the wisdom of the President in that veto. I am in favor so far as I am concerned of putting this limit to three per cent. and not letting any city go beyond it. To-day, in Ogden, we have about reached that limit and we have warrants floating about in the community selling at a discount—a very large discount, too, of about fifteen per cent., a condition of things that ought not to exist. It is better for the cities to go slow, better for them to make their improvements, with the means they have in hand, and it is far better for the people who have the debt to pay. I think this limit is entirely too large. I think it is beyond all reason. And my friend may ask me why I did not make some reference to this in the committee. Unfortunately I was not in the committee when this public debt was considered. I was in other committees which required all my attention.

Mr. KIESEL. Mr. Chairman, I think my colleague, Mr. Evans, who is usu-

ally right—in this instance, I think he made a very unfortunate allusion. If we at that time had secured five hundred thousand dollars—it would have enabled us to get five hundred thousand dollars at five per cent. Everything was arranged for, if it had not been for the veto of the republican President, Mr. Harrison. Now, that five hundred thousand dollars at that time would have enabled us to own our own water works; it would have enabled us to own our own electric lights, and it would have provided us a revenue of at least one hundred thousand dollars. Instead of that we are paying out about seventy-five thousand dollars a year. Now, this is one instance, where the veto of the President was not well exercised.

Mr. EVANS (Weber). The water works were sold before this act of Congress passed.

Mr. KIESEL. The water works were contracted for and we were allowed under the terms of our contract to buy them back and that money would have enabled us to do that, to pay for electric light works and to build our whole sewerage system.

Mr. EVANS (Weber). The object was not to buy the water works.

Mr. KIESEL. That was the principal object and nobody was more in favor of it at that time than yourself.

Mr. EVANS (Weber). Certainly; I have stated that the people were indignant at the time. I believe in every city owning its own water works, but this permits five per centum for general purposes and five per centum for water works.

Mr. CREER. Mr. Chairman, I am opposed to the amendment suggested by the gentleman from Weber, because I think that limit would be too narrow. It includes existing indebtedness, but more particularly am I opposed to it for the reason that it would confine school districts that could not in any event assess more than three per

centum of the assessed valuation of the property in that district. I know in my district they are opposed to bonding for the purpose of building school houses and they have now to rent to a large extent, in order to furnish accommodations for the pupils and this would confine it so that they could not assess more than three per centum, in order to build school facilities for the children, and I am opposed to that.

I think we ought to have a right if we wish to assess the district up to the amount of five per centum in preference to bonding the district. I had rather leave it as it is.

Mr. ELDREDGE. Mr. Chairman, I hope that this amendment will prevail, and even if it had been made two per cent. I should have been in favor of it. I notice that it gives the authority to counties to create an indebtedness of five per cent. A city which is a portion of a county, five, and a school district, which may cover right over the same ground, five, thus making in one section of the country fifteen per cent. indebtedness, that may be created by these different organizations, the county, city, and school district, and it is decidedly too much to place in the power of the inhabitants of any section of the country to create an indebtedness in my judgment.

Mr. SNOW. Do you think the city is going to vote indebtedness for a school house?

Mr. ELDREDGE. They may vote a tax for a city hall or some building.

Mr. SNOW. That is not the question. I ask you about a school house.

Mr. ELDREDGE. A school district may.

Mr. SNOW. Has a city municipal authority over school houses?

Mr. ELDREDGE. No, sir.

Mr. SNOW. Then, where does that fifteen per cent come in? Here is a discrimination made between county, school, and city.

Mr. ELDREDGE. It says no city,

county, town, school district, or other municipal corporation. That would be an aggregate of a school district or the aggregate of a county indebtedness or of a city indebtedness.

Mr. SNOW. Five per cent.

Mr. ELDREDGE. No; each one five per cent. in their individual sphere. You may take the indebtedness of Salt Lake City to-day, as a municipal corporation, and that is one thing; you may take it then as a school district, and that is another thing. Although the same class of property that is being held for the indebtedness of the incorporation is being held for the indebtedness of the school district, and then we may carry it on farther and then here comes an indebtedness of the county and Salt Lake City has to bear its proportion to the county as its value is to the value of the county, and then we may carry it one step further. We may take it in a Territory here and the property of Salt Lake City—this identical property has to bear its proportion of each one of these various debts. When you go to work and add them together each comes upon the same property and upon the same individuals; you will find that it will aggregate a big amount.

Mr. CANNON. Mr. Chairman, I am opposed to the amendment for the reason that I believe the provision is a wise one to leave it as it is and because it is very carefully guarded already. In the first place you will perceive that section 4 provides that no debt shall be created, etc. Now, gentlemen, this is not even left to the general public, but it is to those who have paid a property tax—the qualified voters who have paid a property tax. I think certainly we can trust them in that matter. I desire to call your attention to the fact that in Utah they have not been in the habit of going into debt to any great extent, except one or two cities. I have in my hand the report of the governor and the secretary of the in-

terior for 1893, and by examining them I find that there are only seven cities in the Territory that at that time had an indebtedness of more than ten thousand dollars. Twenty-two cities in the Territory had absolutely no indebtedness whatever, and the other cities ranged in amounts lower than ten thousand dollars, down to ninety-eight dollars—ninety-eight dollars being the lowest, and I think, gentlemen, that when you have provided as we have for safe-guards to the qualified voters that it is well to leave it to the people so that if they want to do something they may do it. Then, again, this specifically provides that it shall be only for public purposes; that is for the purposes specially provided for, and I do not think that on that ground anyone can object to it.

Mr. SPENCER. Do you mean by the adoption of section 5 to give greater borrowing power to Salt Lake City than any other city in Utah?

Mr. CANNON. No, sir.

Mr. SPENCER. Are you aware that by an act of Congress the borrowing power of Salt Lake City was increased to six per cent?

Mr. CANNON. Yes, sir.

Mr. SPENCER. Would not this give five per cent. for construction of sewers, etc.?

Mr. CANNON. We would have the same power that any city would have and the existing indebtedness would have to be taken into account. Salt Lake City would have the same as any other.

Mr. SPENCER. If this article is adopted as it is, I do not see why Salt Lake City has greater borrowing power than any other city in the State. Salt Lake City has, by an act of Congress, the right to borrow six per centum for general improvements. By the adoption of this section we increase that five per centum. Take Provo, Logan, Ogden City, or any other city, they are confined to four per cent., and the most

that could be conceded then would be nine per cent.

Mr. SMITH. If this Constitution is adopted, is not the law of Congress superseded?

Mr. SPENCER. Will not Salt Lake City have already taken advantage of it?

Mr. CUNNINGHAM. Mr. Chairman, I hope that this amendment to strike out will prevail and insert two per cent. I believe two per cent. is enough. As has been stated by the gentleman from Summit, there are four different ways that you can be taxed five per cent. Now five per cent. means that you take one-twentieth of all the property that you tax. Who feels like paying one-twentieth of all the property? And it is possible that they may take eighty per cent. because four times that would mean eighty per cent. Why, it is ridiculous. Who wants to be taxed one-twentieth of all the property for improvements or any other purpose? Why, I do not know what the gentleman from Utah is thinking about. Two per cent. is a heavy tax, that is what the school tax is now. We cannot exceed two per cent., and that is fatal.

Mr. HOWARD. Mr. Chairman, the gentleman's district is already bonded for the amount of about three per cent. and we have not got the facilities that his district has. It would need about twenty thousand dollars to supply buildings or to give sufficient room for the children.

Mr. HART. Mr. Chairman, I am in favor of the five per cent. limit in the first instance; that is in line 6, which is the one that the gentleman moved to amend, as I understand it. Logan City has an indebtedness now altogether equal to that amount. It is in excess of the amount limited by the congressional enactment, which, I understand it, is four per cent. Five per cent. will a little more than cover her present indebtedness. I would, therefore, favor five per cent. for the indebtedness for

general purposes, but when it comes to this special tax for sewerage, for water and lighting purposes, I favor a reduction in that of say three per cent.; but the five per cent. is none too high for general purposes for Logan.

Mr. EVANS (Weber). I think gentlemen certainly misunderstand this article. It is not the question of percentage of taxation. It is a question of percentage of indebtedness.

Mr. HART. That is the way I understand it.

Mr. EVANS (Weber). I know you do, but other gentlemen who have spoken did not. They are talking about the rate of taxation, and I think that my colleague from Weber also misapprehends the question when he says it gives Salt Lake greater privileges than any other. It does not. It treats every city, town, county and village exactly the same. For instance, if Salt Lake City has already borrowed up to six per cent., it could go no further under this section for those general purposes, but existing indebtedness is validated by section 8. To take, for instance, Ogden, they have gone up as high as four per cent., to the limit as now provided by act of Congress. It would permit us to go one per cent. higher for general purposes. If any city had no bonded indebtedness at all, it could go as high as five per cent. under this law, so that it is treating every city, so far as that is concerned, with equality. But the thing here I want this Convention to understand before we vote upon it is this, that this section permits cities and towns to create an indebtedness amounting to five per centum of the assessable valuation of their property for general purposes, and then for lights and sewers and water works an additional five per cent. That would make a limit of ten per cent. that each municipal corporation in this State could reach by way of indebtedness. That is, they would be permitted under this section to go in debt ten per

cent. for these city purposes alone. Then, if the county desired it, it could go in debt five per cent. although the city may be situated within the county, and always is of course; the school district could go in debt five percent. Think of it! Think of the indebtedness that we are leaving here, that the people might incur providing they saw fit to vote it. Why, Ogden had no difficulty in voting for eight per cent. at the time we wanted to borrow this money. They were unanimous in favor of it under the circumstances. They thought it was the making of the city. It was then in rivalry with Salt Lake.

Mr. KIESEL. It would have made it.

Mr. EVANS (Weber). And that is just the craze that reaches men's minds. It has reached mine. I understand it. I profit by the experience, and I would put a limitation in the Constitution prohibiting people going crazy under those circumstances. [Laughter.]

Mr. SQUIRES. Mr. Chairman, I wish the gentleman would prepare his amendment.

Mr. EVANS (Weber). There would be such a limitation that though but one citizen remained sane, he could go into the courts and say, "you cannot exceed this constitutional limit," and if the bondholder took our bonds and paid us the money, they would be invalid. Why, gentlemen, I tell you that this section is too broad. It gives too much room for the people to go into debt. We can create under it right in the locality as high as thirty per cent.; ten per cent. for a city, ten per cent. for the schools, and ten per cent. for the county, for certain purposes. Just think of it. Nearly one-third of one hundred per cent.

Mr. CANNON. Do I understand you to say that the schools can go in debt ten per cent.?

Mr. EVANS (Weber). No, that would be five per cent.; the other five per cent. would be for any city or town when authorized. I was wrong about that.

The city could go in debt ten per cent., the county five per cent., which would be fifteen, the school five, which would be twenty.

Mr. CANNON. Could the school go in debt five in addition to the city?

Mr. EVANS (Weber). Yes, sir; undoubtedly it could; that is just the manner in which this section is drawn. If I could get it through, I would say two per cent., and those cities that have reached as high as five and six per cent., I would stop them right where they are until they cancel some of that indebtedness. It would be better for them in the future.

Mr. FARR. Mr. Chairman, I see they are coming around a little on to my proposition: It might as well be fifty per cent. as twenty. You have already got twenty per cent. arranged for, although section 4 submits it all to the people. They have the right to vote on it, but why can't you be liberal and make it fifty per cent. that they can go to as well as to say twenty per cent.? I do not see any reason why we should provide for any emergency of this kind. I cannot conceive how the city and the town and the county and school and the Territory are going to be taxed so much. We have provided that they can tax twenty per cent.; I should certainly favor the gentleman's motion from Weber, to reduce it down to three per cent. I think that is enough, but then I might just as well have it fifty per cent. as three; it is all the same thing; it has got to be submitted to the people first; there is no consistency in it.

Mr. IVINS. Mr. Chairman, the saving clause in this matter is that no tax at all can be levied unless it is consented to by the people who are property holders and who are directly interested in the tax that is to be levied, and it is because of this that I am perfectly willing to vote for this section just as it is without any amendments. It might be that the constructing of a sewer or paving of a street would enhance the value of prop-

erty thirty per cent., and if it would, and the people whose property is to be enhanced want to vote to construct that sewer or bring an electric light plant into the city, let them do it.

Mr. EVANS (Weber). I do not object to that myself. I am considering the first provision—five per cent. I believe the city ought to control its water and build its sewers and have its own light.

Mr. IVINS. Section 4 applies to the creation of any debt in excess of the taxation for the current year.

Mr. EVANS (Weber). I want to put a limit on the indebtedness for general purposes.

Mr. IVINS. I have nothing more to say except that section 4 seems to give all the protection it needs and I am ready to vote for it just as it is.

Mr. HART. I think that the cities of our county could stand four per cent. and I therefore move an amendment to the motion of the gentleman that the word four be substituted instead of five.

No second.

Mr. CANNON. Mr. Chairman, I desire to call attention to the fact that two or three of our most progressive cities in Utah Territory now approach this five per cent. limit. Brigham City, Logan City, and there are a number of these cities that are in that condition now. I believe that those cities when they went into debt did it for a good purpose. I do not know the individual cases, but I believe they have value received for the money that they expended, and I call attention to this fact, some of the men who are opposing the present rate proposed are men who always claim that they are willing to trust the people and yet when a proposition comes in here to submit it to the people they now want to change it and limit it so that the people cannot have a voice in the matter. We put a reasonable limit upon it, but we want to put it so that they may procure their own water works, their own electric light plants, and anything of this character.

And I call your attention, gentlemen, to the fact that in Salt Lake County, which we usually stigmatize spendthrift and boom county, that in this county three times in succession the voters have refused to bond the county, and I believe that you can safely leave this article just as it is and that the Territory will be benefitted more by it than by the amendment proposed.

The amendment of Mr. Evans of Weber was rejected.

Section 6 was read.

Mr. GOODWIN. Mr. Chairman, I move that be stricken out.

No second.

Sections 7 and 8 were read.

Mr. KERR. Mr. Chairman, in order that the provisions of section 3 may conform, I move the following amendment:

That in line 13 the word "people" be stricken out and the words "qualified electors of the State" inserted in lieu thereof. After the word "and" the word "shall" inserted. The words "qualified electors" are used in other sections.

Mr. THURMAN. Mr. Chairman, I wish to offer an amendment to the amendment. I prepared it sometime ago. I call the attention of the Convention to line 13 of section 3, after the word "people," insert the following, "qualified by law to vote upon the proposition submitted." The reason I propose this and the reason I oppose "qualified electors," is because it might leave it open that the ordinary electors of the State would have a right to vote upon this proposition.

Mr. HART. Mr. Chairman, I would like to ask the gentleman where the qualifications are specified in this Constitution? The qualifications named in section 4 do not pertain to a State election. It refers solely to city, town, and county election, in voting upon the question of whether an indebtedness shall be created.

Mr. THURMAN. It means the voters

who may be qualified by the Legislature. If I remember, our article on elections and suffrage or the bill of rights, it provides that a property qualification shall not be required except in cases of a special tax or an indebtedness. It leaves the Legislature if they see fit, to fix a property qualification in those cases. Now, in view of the fact that the Legislature may or may not provide for a property qualification, this will fit the case.

Mr. HART. Why not use the same language there that is used in section 4, requiring them to be taxpayers?

Mr. THURMAN. Well, it is a question whether you want in the Constitution to do that. If you do, all right. It has been left with the Legislature to provide a property qualification and I made this fit that condition. Section 8 of the elections and suffrage article is as follows: (Reads). Now, if that be construed to fix a qualification absolutely without leaving it to the Legislature in those cases, then this amendment of mine meets that condition. If it be construed that that leaves it to the Legislature and the Legislature may afterwards provide any qualification, then my amendment meets that condition.

Mr. CANNON. I would second the motion of Mr. Thurman.

Mr. SQUIRES. I would like to ask the gentleman from Utah if he has any objection to the transposition of that sentence as made by the gentleman from Cache?

Mr. THURMAN. I have none whatever. I think that is a proper transposition; I thought it at the time. I accept that part of it.

Mr. SQUIRES. Mr. Chairman, I understood a part of Mr. Kerr's motion was that the words, "at a general election," shall come after the words, "have been submitted."

Mr. KERR. Yes, sir.

The amendment of Mr. Thurman was agreed to.

Mr. THOMPSON. Mr. Chairman, I

wish to offer an amendment to section 3, in line 13, after the words, "received a," to insert the words, "two-thirds majority." I would like to say that sometimes a bare majority imposes a very heavy burden on a large minority, and I think where such a large tax can be assessed that it would be proper that we have a two-thirds majority.

The question being taken on the amendment, the committee divided and by a vote of 29 ayes to 42 noes, the amendment was rejected.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee beg leave to report that they have had under consideration the article on revenue and taxation, and that they have passed the same and recommend that it be placed upon the calendar for its third reading. Also, that they have had under consideration the article on public debt and make the same recommendation.

The Convention then, at 5:43 p.m., adjourned.

FORTY-SIXTH DAY.

THURSDAY, April 18, 1895.

Convention was called to order at 10 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Christiansen, of Sanpete.

Journal of the forty-fifth day's session was read and approved.

Mr. Lewis and Mr. Richards were excused.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to a vote of the people:

File No. 329, signed by J. H. Boremort and 128 others, from Kaysville precinct, by Roberts, of Davis.

File No. 330, signed by Myron D. Higbee and 29 others, from Iron County, by Heybourne, of Iron, by request.

File No. 331, signed by W. J. Loftus

and 695 others, from Salt Lake County, by Kearns, of Summit.

File No. 332, signed by E. H. Stout and 367 others, from Salt Lake, by Eichnor, of Salt Lake.

File No. 333, signed by David W. Evans and 266 others, from Ogden, by Kiesel, of Weber.

File No. 334, signed by E. S. Pratt and 485 others, from Salt Lake, by Keith, of Summit.

File No. 335, signed by Andrew Cahoon and 30 others, from Murray, by Haynes, of Salt Lake.

File No. 336, signed by N. Hansen and 33 others, from Pleasant View, by Green, of Salt Lake.

File No. 337, signed by P. F. Peterson and 68 others, from Redmond, by Ricks, of Sevier, by request.

File No. 338, signed by R. W. Nicol and 87 others, from Salt Lake, by Haynes, of Salt Lake.

File No. 339, signed by Mrs. M. Loveless and 396 others, from Provo, by Sharp, of Emery.

File No. 340, signed by E. L. Butterfield and 100 others, from Salt Lake, by James, of Salt Lake.

File No. 341, signed by A. H. Earl and 27 others, of Scofield, by Sharp, of Emery.

File No. 342, signed by W. H. Olsten and 221 others, from Sanpete, by Lund, of Sanpete.

File No. 343, signed by G. L. Savage and 864, from Salt Lake, by Mackintosh, of Salt Lake.

File No. 344, signed by M. E. Kaighn and 21 others, from Salt Lake, by Van Horne, of Salt Lake.

File No. 345, signed by A. E. Beveridge and 408 others, from Salt Lake, by Squires, of Salt Lake.

File No. 346, signed by Joel Shomaker and 30 others, by L. Larsen, of Sanpete.

File No. 347, signed by E. H. Stout and 140 others, from Salt Lake, by Squires, of Salt Lake.

File No. 348, signed by O. P. Connor

and 384 others, from Salt Lake, by James, of Salt Lake.

File No. 349, signed by A. S. Bradley and 612 others, from Salt Lake, by Hill, of Salt Lake.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 350, signed by B. Evans and 162 others, from Weber county, by Chidester, of Garfield.

File No. 351, signed by Robt. Davidson and 124 others, from Logan, by Kerr, of Cache.

File No. 352, signed by Elijah Seamons and 112 others, from Hyde Park, by Low, of Cache.

File No. 353, signed by F. A. Little and 97 others, from Morgan County, by Francis, of Morgan.

File No. 354, signed by E. A. Bagley and 24 others, from Piute County, by Allen, of Piute.

File No. 355, signed by James Z. Stewart and 110 others, from Logan, by Warrum, of Cache.

File No. 356, signed by Bertha Thiede and 153 others, from Logan, by Hart, of Cache.

File No. 357, signed by Uriah T. Jones and 10 others, from Iron County, by Heybourne, of Iron.

File No. 358, signed by Mary H. Anderson and 142 others, from Logan, by Hart, of Cache.

File No. 359, signed by Alma Montgomery and 134 others, from North Ogden, by Chidester, of Garfield.

File No. 360, signed by M. Ballard and 89 others, from Logan, by Kerr, of Cache.

File No. 361, signed by Ellen Reese and 83 others, from Logan, by Warrum, of Cache.

File No. 362, signed by Caroline Affleck and 227 others, from Logan, by Hart, of Cache.

File No. 363, containing 119 names, from Summit County; 959 names, from Cache County; 211 names, from Davis

County; 108 names, from Iron County; 56 names, from Wasatch County; 30 names, from Utah County, 31 names, from Gunnison; 601 names, from Millard County; 136 names, from Carbon County; 188 names, from Washington County; 271 names, from Rich County; 52 names, from Emery County; 554 names, from Salt Lake County; 162 names, from Weber County, by Chidester, of Garfield.

Ordered filed.

Mr. LUND. Mr. President, I make a motion that we take the report of the expense committee from the table and consider it.

The motion was agreed to.

Mr. EVANS (Weber). Mr. President, I move the previous question upon the report.

The PRESIDENT. The secretary will read the report.

The report was read by the secretary.

Mr. LUND. Mr. President, I arise to a question of personal privilege. I do not think it is quite fair before one word of debate has been made upon this subject to move the previous question.

Mr. EVANS (Weber). I will withhold the motion for the purpose of giving the chairman of the committee an opportunity to make a statement. My purpose was to cut off debate upon this matter, with a desire to hasten business.

Mr. LUND. Mr. President, I shall try to be as short as our fund is. We have as a Convention servants—our officers. We are the servants of the people. We wanted to be very economical and we made a resolution a little while back that if the fund did not hold out we did not want it to cost the people of the new State a cent. Something to that effect. Now our officers—our servants have not said that to us. We were a dignified body when we hired them, and I think it is only just that we pay them what we agreed to pay them

and if our per diem should go down to three dollars from the forty-fourth day, until the end; we can stand it better than we can ask them to go without their pay.

The previous question was ordered.

Mr. EVANS (Utah). Mr. President, as I understand the situation now, the vote recurs upon my motion that the report be filed and that the recommendations be not adopted.

The motion of Mr. Evans of Utah was agreed to.

SPECIAL ORDERS.

The PRESIDENT. As the chair understands it, the special order for today is the motion to reconsider section 1 of the article on elections and rights of suffrage.

Mr. VARIAN. Mr. President, I presume it will be necessary for a motion to be made before it can be voted upon, and I am ready to make it now, if the time has arrived to consider it. In accordance, then, with notice heretofore given, I move to reconsider the vote by which the article on suffrages and elections was passed upon its third reading upon a previous day.

Mr. CORAY. Mr. President, I object to the consideration of that question.

Mr. VARIAN. In my judgment, Mr. President, there is little if anything to be gained by a further consideration of this question. I am of the opinion that every member upon this floor has determined for himself at this time how he shall vote upon this question. In moving for a reconsideration, of course, as it is generally understood, I do so, for the purpose, in the event of the reconsideration being had, of presenting to the Convention a proposition whereby the matter comprehended in the first section I think of the article shall be submitted to the people of this Territory as a separate article, to be passed upon by them at the same election when they shall determine whether this Constitution shall be adopted.

Mr. CORAY. Mr. President, I arise to a point of order. Under Roberts' rules of order, when an objection is made to a consideration of the question, it must be put without debate or any remarks whatever. And I want a ruling of the chair on that.

The PRESIDENT. The gentleman has not been recognized.

Mr. CORAY. The question can be put while another member has the floor, as I understand it.

Mr. VARIAN. I think the chair is in the same situation that I am. It does not quite understand the purpose or point, if there is any point. If I am called to order, I will sit down until I hear the point of order.

Mr. EVANS (Utah). Mr. President, there is an objection made to the consideration of this question. The Convention passed some time ago that they would permit a motion to be made that a reconsideration might be had. The time has now arrived when that motion was to be made, and on it being made there has been an objection raised by a member upon this floor to the reconsideration. If the president will turn to rule 15, he will find that that objection may be made although a member has the floor, and if it shall be made before debate is begun upon the question, the chair must proceed to put that question, and if two-thirds vote in favor of not hearing that question, then it ceases.

Mr. VARIAN. Mr. President, I arise to a point of order.

Mr. BUTTON. Mr. President, I would like to ask a question.

The PRESIDENT. It is not debatable.

Mr. VARIAN. The chair has heard the argument of the gentleman who supported this proposition, I presume the chair is willing, before it makes a ruling, to consider the matter and determine in which way it will make a ruling.

The PRESIDENT. It cannot be de-

bated. As the chair understands it, it can only be voted down.

Mr. VARIAN. I arise to a point of order, that that motion is absolutely out of order at this time. Now, let me state my point of order. In the first place that rule relates to original questions that may come before any legislative body, and which are of such a nature that they do not desire to consider them at all. This is not an original question. It has been debated here for weeks. It has been determined upon two or three different occasions. Under the rules of this house a motion to reconsider is recognized. It may be made on the same day as it was made here and it was postponed for the hearing of it without any objection being made at the time. This objection is not applicable.

Mr. BUTTON. Mr. President, another point of order is that the question was already being debated. The debate had commenced before this motion was made.

Mr. ROBERTS. Mr. President, I arise in this connection—

The PRESIDENT. This is all out of order.

Mr. ROBERTS. I wish to call attention to the fact that this question was made a special arrangement to have this motion of reconsideration come up and technicalities aside, this house agreed that this motion should be made and it carried with it the idea that considerations connected with it—why it should be reconsidered was also made.

Mr. JAMES. I want to inquire of the chair if it was not made a special order for to-day and did not this Convention agree to bring this question up? Now, I ask, is this not an attempt at snap judgment to refuse a hearing upon what this Convention has agreed to do?

The question being taken on the objection the objection was not sustained.

Mr. VARIAN. Mr. President, I was intending to say that there is a grave

question which ought to be considered thoroughly in connection with this reconsideration, not only the effect that the action may have upon our own people; how far-reaching that effect may be, no man can tell at this time. It involves a risk, however pronounced the convictions of gentlemen may be as to the understanding and purpose of the people of this Territory. But there is something other than that—the effect it will have in other quarters. If it shall have the effect to array in opposition to the admission of this Territory as I state a large proportion of the people of the United States, the effect of that opposition should be well considered. I confess that I, for one, want to see Utah become a State. I do not want to go backward onestep. We have entered upon the struggle and I want to see the journey completed and it does seem to me that it would be the part of wisdom and prudence to run as few risks in this matter as we shall have to. I believe that all party pledges can and will be faithfully fulfilled in the way indicated. There can be no question about that. Let it be remembered that upon the assumption of our friends who believe in putting this particular section in the Constitution—namely, that the Constitution will carry under any and all circumstances—still let it be remembered that if that be true and granting it, here is a proposition which involves a fundamental principle in State policy, affecting large masses of people which shall have become a part of the organic law simply by the determination and votes of say fifty or sixty of the delegates of this Convention. If I remember correctly the article was passed in committee of the whole by a vote of some fifty-three, and I submit to the Convention in all fairness that this matter ought to be considered in this light, that you will have nothing to lose by submitting the question to the people. Therefore, I submit this motion.

Mr. THURMAN. Mr. President, I move to lay the motion to reconsider on the table.

Mr. EVANS (Weber). Mr. President, I think we ought to be fair in this matter. I understand that Mr. Roberts, who is opposed to the question of putting woman's suffrage in the Constitution, wants to make a statement of only about five minutes. He has so informed me, and I think Mr. Thurman ought to withhold his motion until he makes it. Let him make it anyway. He can do it anyway.

The roll being called on the motion of Mr. Thurman, the result was as follows

AYES—65.

Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Boyer	Low, Cache
Brandley	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christiansen	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Nebeker
Crane	Partridge
Creer	Peters
Cunningham	Peterson, Sanpete
Driver	Preston
Evans, Utah	Raleigh
Farr	Ricks
Francis	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Shurtliff
Heybourne	Snow
Howard	Symons
Hughes	Thatcher
Ivins	Thompson
Johnson	Thoreson
Jolley	Thorne
Kerr	Thurman
Kimball, Salt Lake	Warrum
Lambert	Whitney
Larsen, L.	Williams.
Larsen, C. P.	

NOES—35.

Adams	Kearns
Bowdle	Lund
Button	Mackintosh
Clark	Moritz
Cushing	Murdock, Summit
Eldredge	Page
Emery	Peterson, Grand
Engberg	Pierce
Evans, Weber	Roberts
Gibbs	Ryan
Goodwin	Sharp
Green	Spencer
Haynes	Squires
Hill	Stover
Hyde	Strevell
James	Van Horne
Kiesel	Varian.
Keith	

ABSENT—4.

Kimball, Weber	Miller
Lewis	Wells.

PAIRED—2.

Eichnor	Richards.
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Motion carried.

Mr. EVANS (Weber). Mr. President, I want to change my vote from aye to no, not because I am not in favor of inserting this clause in the Constitution, because everyone knows that I am, but I do not believe in cutting off gentlemen who desire to speak only a few minutes.

Mr. EVANS (Utah). Mr. President, I move you that this matter we have just laid upon the table be now taken from the table. I do not want it hanging over our head everlastingly.

The motion was agreed to.

Mr. EVANS (Utah). Mr. President, I now move you that the debate cease upon this question at 12 o'clock, if the determination of the question shall not be reached sooner.

Mr. CHIDESTER. Mr. President, I amend that motion by saying that it shall cease in five minutes.

Mr. EVANS (Weber). Mr. President, I move an amendment to the amendment, that the debate cease in fifteen minutes.

The amendment of Mr. Evans, of Weber, was agreed to.

Mr. ROBERTS. Mr. President, it has not been my intention to re-open the debate on the general proposition involved in this question. I think I can get through in the course of two or three minutes with what I have to say. In the course of the discussion of this subject, those who were in favor of immediately putting or providing for woman's suffrage in the Constitution, when some objection was made to that proposition, wanted to know what demand there was from the people contrary to that, where were the petitions asking that suffrage be not granted or asking that suffrage be submitted as a separate proposition, and at that time there were no petitions or memorials upon that subject. Since that, however it is the fact that there have been laid before this Convention petitions signed by 15,366 people asking that this proposition be submitted as a separate article, to be voted upon by the people. I do not care what the number may be upon the other side. I take it that this Convention cannot blindly ignore the petition of so many American citizens asking, not that woman's suffrage shall be kept out of the Constitution, but asking that they have the privilege of voting against that proposition without being subjected to the necessity of voting against the Constitution itself in order to express their views upon that subject. This question carries with it the consideration as to whether there shall be thousands of votes made by your action against the Constitution in this Territory. And it is a question of sufficient gravity, because this Convention should pause and ask itself the question, if, for the mere purpose of putting this woman's suffrage clause directly in the Constitution, instead of submitting it as a separate article to be voted on separately by the people, they can afford to array against the Constitution thousands of votes.

Now, it is useless to say that the votes against the Constitution will not be cast in consequence of this clause going into the Constitution, because we have heard too many emphatic voices saying that they will vote against the instrument if woman's suffrage goes in. I am of the opinion that if the question of woman's suffrage is submitted to the people that the people will vote against it. Gentlemen of the majority are of the opinion that if submitted separately it would be voted into the Constitution by the people. I do not believe it will. Let it go to the people. Let the question be discussed. Let us see if it is a foregone conclusion that the majority of the people are so overwhelmingly in favor of woman's suffrage as gentlemen suppose. Now, here is an opportunity to save thousands of votes to this Constitution and if you vote this Constitution to submit it separately down, the result will be as I told you, and I shall not fear the guess that I make on that subject. To-day, I shall not vote in favor of taking the course on this proposition that will array thousands against the Constitution.

Mr. HAMMOND. Mr. President, a great deal of stress seems to be laid upon the proposition that if it is placed in the Constitution we are going to lose thousand of votes. Now, sir, my opinion is that we lose thousands of votes if we do not keep it where it is to-day, in the Constitution. That is my judgment. I want statehood I believe as much as any citizen of this Territory, but I have no fears that either party, republicans or democrats, will turn a cold shoulder to Utah to-day. She is no spring chicken like she was, clamoring for recognition. She is a full grown maiden or matron and they will bow and scrape and break their backs to get her into the Union.

Mr. JAMES. Mr. President, I will be as brief as possible. I want to add a little to what my friend from Davis County has said. We were accused at

the time when we asked that this matter might be submitted to the people so that they could decide upon it for themselves and by themselves, that nobody was asking for that opportunity. That went out before the public and you have before you to-day 15,500 people petitioning you to permit them next November to go to the polls and cast their votes according to that free right that is given to every American citizen to vote as he pleases and to vote as his dictation may say to him is proper and right. These petitions, Mr. President, come in here from all parts of this Territory. They come from Salt Lake City, from the working associations, from the chamber of commerce, from the city of Ogden, from Park City, from Provo, Mercur, Spanish Fork, Mount Pleasant, Cache County, Logan, Millville, Paradise, Morgan, Coalville, Summit County, Box Elder, Brigham City, Hooper, Corinne, Manti, Millard, Iron County, Moab, Ephraim, Holden, Silver City, Sanpete, Taylorville, Farmer's Ward, Santaquin, Emery County, Centerville, Wellington, Elsinore, Payson, Eureka, Juab, Lehi, P. V. Junction, Salina, Stockton, Ophir, Richfield, Parowan, Piute, Washington, Beaver, Carr Fork, Murray, Rockport, Center, Silver Reef, Frisco, Spring City, East Mill Creek, Rockville, Springville—I suppose this is repetition; I will not read any more.

Mr. HAMMOND. How many from San Juan.

Mr. JAMES. Well, San Juan was forgotten. The representatives seem to be largely of Salt Lake City at the present time.

Mr. ROBERTS. I would like to ask the gentleman a question. These petitions come without being backed up by an organization, do they not?

Mr. JAMES. They do, sir, so far as I know.

Mr. ROBERTS. That is, are they not the spontaneous expression of the people?

Mr. JAMES. That is exactly what I

want to impress upon this Convention, that it is the spontaneous action of the people of this Territory through the charge that was sent out from this Convention that there was not one that wanted the privilege of voting separately on this question.

Mr. THURMAN. May I ask the gentleman a question? Were not all your petitions headed by a line or two appearing to have been written upon the same instrument and by the same individual?

Mr. JAMES. I have not had time, Mr. Thurman, to examine them; I do not know whether it is true or not.

Mr. KIESEL. May I ask a question?

Mr. JAMES. Mr. President, I cannot yield any more. I will be shut off in a half a minute or two more. I want to say to this Convention now, I do not care if you come in here with fifty thousand signers of petitions on the other side and say that they want this to go into the Constitution, I say you have no right to do it. Minorities in this country have a right—and if it was simply a question of selection who should be the choice of the people to an office, then you would have a right to say that the majority controlled, but when it comes to a question of dictating to an American citizen how he shall cast his vote or else compel him to vote against an honest conviction of his heart, you have no right to do it, and that is the reason I arise, Mr. President, in the interest of fifteen thousand honest people in this Territory who want to vote for a Constitution to give us statehood, but say, "we want the privilege of voting as we please upon woman's suffrage." They do not say that we do not want woman's suffrage, they say that if the majority want woman's suffrage, it is right and proper and they should have it and we will consent, but if the majority do not say so, we do not want it choked down our throats.

Mr. EVANS (Weber). Mr. President, I believe that a separate submission would bring up all the embitterments of the past—the discussion of this matter in the campaign. I believe the underlying principle or reasons which govern those who desire to vote for separate submission are to defeat woman's suffrage if they can. That would simply bring up all the embitterments of the past, that we have fought over once.

Mr. ROBERTS. I wish to ask if those who are opposed to woman's suffrage have not the right to try to defeat it if they can?

Mr. EVANS (Weber). That is right, they have a perfect right to do it if they can, but sir, it would bring up the bitter feelings that we have once buried and which never ought to be resurrected.

Mr. KIESEL. You have them now.

Mr. EVANS (Weber). No, we will not have them, gentlemen. You will be loyal American citizens and support the Constitution of the new State. I will ask Mr. James a question. Suppose, as he states, that the people of the minority, however small, have a right to an expression of an opinion, would he vote to submit the question of prohibition to the people here in a separate article? He knows that he would not. I would not do it, because I do not believe that it is practicable. That simply shows the fallacy of these arguments. Gentlemen, we would teach the people of this Territory a political lesson, which would be sufficient to forever condemn us if we do not stand by our party pledges and our honor.

Mr. IVINS. Mr. President, I do not wish to say anything upon this matter, but simply to answer a question that was asked by the gentleman from Davis County. He said have not these petitions all been sent out without solicitation?

Mr. ROBERTS. No, sir.

Mr. IVINS. I hold in my hand a poster which I took from—

Mr. ROBERTS. The gentleman is certainly wrong, my statement was without an organization behind it, such as the suffrage organization.

Mr. IVINS. I simply wanted to say that there was somebody behind it. I hold in my hand a poster which I took from a petition that came from a precinct in my county and was signed by every man and woman in it that I was acquainted with, asking for separate submission of this question. It reads, "Get this filled with signatures and mail it to your delegate at the Constitutional Convention. Don't delay." There was no other communication with it. Now, I hold in my hand a letter that comes from some people—

Mr. ROBERTS. I wish to call the gentleman's attention to the fact that there was something else with it and that was the petition asking the—

Mr. IVINS. I do not wish to be interrupted.

Mr. ROBERTS. —separate submission.

Mr. IVINS. I hold in my hand a letter from one of my constituents in that very precinct which says that the people that signed that petition did not know what they were doing and this letter has come to me without any solicitation. I have never had a word of correspondence with any of them.

Mr. CANNON. Mr. President.

The PRESIDENT. Mr. Cannon has the floor.

Mr. EVANS (Utah). Mr. President, I arise to a point of order, that the time has now expired.

The PRESIDENT. There is one minute.

Mr. CHIDESTER. Mr. President.

The PRESIDENT. Mr. Chidester has one minute.

Mr. CHIDESTER. I want to ask the gentleman who talks so loud about American citizens and their rights what they have to say about the majority? They hold that the minority has the right to control the majority.

Mr. ROBERTS. Oh, no; we do not.

Mr. JAMES. Mr. President, I arise to a point of order.

Mr. CHIDESTER. That is not—

Mr. JAMES. I want to be corrected. I do not want to be misquoted upon this floor.

Mr. CHIDESTER. You must not make such assertions if you do not want to be corrected.

Mr. JAMES. I did not say I didn't want to be corrected.

Mr. CHIDESTER. He cries every time he opens his mouth and so has every other one—

Mr. BUTTON. Order.

The PRESIDENT. The gentleman's time has expired. [Laughter.]

Mr. IVINS. Mr. President, I claim Mr. Chidester was not permitted to occupy his time.

Mr. CHIDESTER. I arise to a point of order and personal privilege. According to the rules I have a right to close this debate.

The PRESIDENT. Well, your minute is up.

Mr. CHIDESTER. I want to say that there is no petitions against it. Now—

The PRESIDENT. Gentlemen, keep your seats.

Mr. CHIDESTER. I want to say that it is largely children who were recorded on the minority petitions asking for a separate submission.

Mr. JAMES. Mr. President.

The PRESIDENT. The debate has closed, gentlemen.

The roll being called on the motion of Mr. Varian, the result was as follows:

AYES—32.

Adams	Mackintosh
Bowdle	Moritz
Button	Murdock, Summit
Clark	Page
Cushing	Peterson, Grand
Eldredge	Peterson, Sanpete
Goodwin	Pierce
Green	Roberts
Haynes	Ryan

Hill	Sharp
Hyde	Spencer
James	Squires
Kiesel	Stover
Keith	Strevell
Kearns	Van Horne
Lund	Varian.

NOES—69.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Coray	Morris
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Nebeker
Cunningham	Partridge
Driver	Peters
Emery	Preston
Engberg	Raleigh
Evans, Weber	Ricks
Evans, Utah	Robertson
Farr	Robinson, Kane
Francis	Robison, Wayne
Gibbs	Shurtliff
Hammond	Snow
Hart	Symons
Halliday	Thatcher
Heybourne	Thompson
Howard	Thoreson
Hughes	Thorne
Ivins	Thurman
Johnson	Warrum
Jolley	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Lambert	

ABSENT—3.

Kimball, Weber	Miller.
Lewis	

PAIRED—2.

Eichnor ,	Richards.
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Motion lost.

The Convention then proceeded to the

consideration of the article entitled executive.

Sections 1, 2, 3, 4, 5 and 6 were read.

Mr. ROBERTS. Mr. President, I move to strike out the words after "convene," in line 7, down to and including the word "session," in line 9. I just want to call attention to the reason for offering the motion and that is in the few lines here where it states "and the Legislature shall transact no legislative business except that for which they were especially convened," and then the words I move to strike out are "or such other legislative business as the governor may call to the attention of the Legislature while in session."

There seems to me to be an incongruity in that language and the only correction that comes to my mind is now to strike that out.

Mr. VARIAN. Mr. President, that was fully discussed for probably half or three quarters of an hour in the committee of the whole and the answer to the objection was that it did not make any difference; if the governor wanted to introduce other business; if any emergency should arise after he had called a special session requiring the submission of other business, that he would simply go through the form of making a proclamation and reconvening the legislative body. That I believe was the idea of my friend from Weber.

Mr. EVANS (Weber). Was not it also the intention that if anything extraordinary should arise during the extra session of the Legislature, all the governor would have to do would be to send in his message so that it might transact that business as well as the special business they were called for?

Mr. HART. Mr. President, I think that clause should go out for the reason that I think that the Legislature should be notified in advance of the purpose for which they were called together and it is only the barest kind of a possibility—it is not at all probable that having called the Legislature together

for one purpose that in a few days or a week after some other extraordinary occasion would require them to act upon some other matter. It is only once in a great while an extra session would be called at all. I think the governor should be limited in this matter and be required to designate in this manner the purpose for which the extra session is called.

The motion of Mr. Roberts was rejected.

Mr. SQUIRES. Mr. President, I notice that the secretary in reading on the fourth line, read "which the Legislature has." Is that correct?

The SECRETARY. Yes, sir.

Mr. SQUIRES. If that is the way the word should be, then the same change should be made in line 6.

Mr. VARIAN. It was not changed; I want to call attention to the fact that the use of the word "has" and the word "have," in the connection there, is a matter simply of taste and we had better pass this thing for the committee on compilation and arrangement to determine this question. I suggest that in the Convention all these matters be passed to the committee.

Mr. SQUIRES. I agree with the gentleman from Salt Lake, but I wanted it uniform in the section.

Sections 7, 9, and 10 were read.

Mr. VAN HORNE. Mr. President, I move in section 10 to strike the letter "s" off the word occurs.

Mr. VARIAN. I suggest such slight corrections should be made without taking a vote.

Sections 11 and 12 were read.

Mr. HYDE. Mr. President, I have an amendment to offer to section 12, to insert at the beginning of the section, "until otherwise provided by law."

The amendment was agreed to.

Mr. EICHNOR. Mr. President, I now offer a substitute for the section as amended:

The governor shall have power to grant reprieves, commutations, and

pardons, after conviction, for all offenses, subject to such regulations and restrictions as may be provided by law.

The substitute was rejected.

Mr. EMERY. Mr. President, I have no objection particularly to this section, but I think it deals with legislative matters too much. I move to strike out after the word "law," in the tenth line, all down to the word "state," in the twenty-first line; also commencing at the beginning of the twenty-seventh line, strike out all to the word "provided," in the thirtieth line. Again, commencing with the word "when," in the thirty-fourth line, strike out the balance of the section.

Mr. VARIAN. Mr. President, this whole matter has been gone over on two several days in committee of the whole and was thoroughly discussed. I do not propose to discuss the question. I simply want to call attention to the fact that it is the design of this article to take away from this board of pardons the power of doing anything secret. We want to create a new tribunal in this particular and dignify it by making it a public tribunal of record so that its sittings shall be in the eyes of the people and that there shall be reasons given which may be passed upon by public sentiment for the action taken by this board under this Constitution, and it was for that reason that these matters which may appear to be in some degree legislative were incorporated in here in accordance with the provisions of some other similar article in other constitutions.

Mr. LOW (Cache). Mr. President, I move to strike out the whole section as amended and insert in lieu thereof a substitute which I have here present.

The amendment offered by Mr. Emery was rejected.

Mr. VARIAN. Mr. President, I suggest the time for offering this substitute would have been when opportunity afforded. The house has refused to strike out this section.

The PRESIDENT. The chair is of the opinion that the substitute is in order.

Mr. Low, of Cache, offered the following substitute:

The governor, secretary of state, and attorney general shall constitute a board of pardons and shall have power to grant reprieves, commutations, and pardons after convictions for all offenses, except treason and cases of impeachment, subject to such regulations as may be provided by law.

Mr. LOW (Cache). Mr. President, I want to say that the section as it now stands, with the amendments and as it came from the committee of the whole, is pure legislative matter.

The substitute was rejected.

Mr. VAN HORNE. Mr. President, I want to make a motion to strike out section 12, without any substitute at all.

Mr. MALONEY. Mr. President, this is pure legislation. I am in favor of striking the whole thing out and leaving it to the Legislature.

The motion of Mr. Van Horne was rejected.

Section 13 was read.

Mr. HYDE. Mr. President, I offer an amendment on that section, to add at the beginning of the section, "until otherwise provided by law."

The amendment was agreed to.

Section 14 was read.

Mr. CREER. Mr. President, I move an amendment to precede this section, similar to the one made to the other, "until otherwise provided by law." And I may also offer the same amendment to section 15.

The amendments were agreed to.

Sections 15, 16, 17, 18, 19, and 20 were read.

Mr. VAN HORNE. Mr. President, I move to strike out, beginning with line 24, of section 20, down to and including the word, "office," in line 29. It is already provided for in a section of the legislative article.

Mr. VARIAN. What section of the legislative article?

Mr. VAN HORNE. Section 25, if I remember rightly.

Mr. VARIAN. Section 4 of the legislative article simply is prohibitory against granting extra compensation, fee, or allowance to any public officer after service has been rendered or contract entered into.

The motion of Mr. Van Horne was rejected.

Mr. SNOW. Mr. President, I move that the one thousand dollars be stricken out in line 22 of this section and fifteen hundred dollars be inserted.

Mr. KEARNS. Mr. President, I move as an amendment that we strike out the four lines, 19, 20, 21 and 22, and place the sum of two thousand dollars each.

Mr. SNOW. I think, Mr. President and gentlemen of the Convention, that if it is a superintendent of public instruction that we wish to create in this section, we ought to pay compensation somewhere near commensurate with the ability that will be required. If we want an officer such as we have sometimes had in this Territory, whose principal and chief duty was to apportion the school fund and distribute it to the various county treasurers, then perhaps a compensation of one thousand dollars would be adequate, but I submit that if that is what we conceive to be the duty of a superintendent of public instruction we had better let some other of these State officers exercise these duties ex officio and not create a special officer for those duties; but if we want a man who is educated and who understands the methods of education and who will be in truth and verity a superintendent of public instruction, for heaven's sake, let us give him the salary of an ordinary school teacher and not put him down on less than one hundred dollars a month. Almost any school teacher can get that in the public schools of the Territory that has any ability.

Mr. THURMAN. Do you know what the superintendent has been getting?

Mr. SNOW. I believe he has been getting one thousand dollars and I believe his principal duties have been to apportion the school fund.

Mr. THURMAN. Would you increase the salary five hundred dollars?

Mr. SNOW. I believe that is all.

Mr. FARR. Mr. President, I understand this has all been provided for. I think the onethousand dollars is plenty until the Legislature meets. If they want to they can change it. I do not see what is the use of increasing it. I think it is enough anyhow.

Mr. KERR. Mr. President, I do not know what the work of the attorney general will be sufficiently to say that his salary should be increased from fifteen hundred to two thousand dollars, but I am certainly in favor of that part of the amendment to the amendment which provides that the superintendent of public instruction shall receive two thousand dollars. The gentleman will observe that in section 19 we provide that the superintendent of public instruction shall have general supervision over all matters pertaining to the public schools, and shall perform such other specific duties as shall be provided by law. I submit, Mr. President, that the gentleman who shall be superintendent of public instruction should be a man of learning, he should be a man who has spent years and a great amount of money in preparing for the work of this office. It is not like the work of the office of governor, which requires little or no preparation, [laughter] and can be filled by a man of ordinary ability, and here in this section we have placed the salary of governor at twenty-five hundred dollars, whereas the man who is to have general control of all the schools of the State and who should visit every county and every town in the State, who should attend to the work necessary in order to provide that all the

work in the public schools shall be uniform, and be a man of organizing ability—a man who can work with the county superintendents in securing and building up in the State a thorough system of public instruction. Now, I wish to state that the present commissioner of schools receives, I understand, but one thousand dollars a year, and what is the result, gentlemen, of the Convention? In addition to the duties as commissioner of schools, he is engaged as school teacher, with the result that he cannot possibly attend to the work of his office as commissioner of schools. He has time to attend to his work in the school room, and except on an occasional day when it is possible for him to get away from the school and on Saturdays, he is unable to get out into the counties and attend to the work that he should attend to as commissioner of schools. Now, gentlemen of the Convention, the man who occupies this position should be able to give his entire time to the work. The office is worth two thousand dollars. Any man who is not worth that is unworthy the office. Gentlemen, I hope that that part of the amendment will prevail which makes the salary of the superintendent of public instruction two thousand dollars.

Mr. GOODWIN. Mr. President, I would a great deal rather see this whole thing stricken out and left to the Legislature than to have it advertised all down the years that this body had so little conception of the duties of a superintendent of public instruction, so little respect for that position, as to fix the salary at a thousand dollars. It is simply shameful. It is not becoming this new State. It is not in line with modern progress, it is not what the ordinary merchant pays his bookkeeper, it is not what any banker would think of paying a competent teller in his bank. To be fit for the duties a man must have spent years of his life in preparation, years of expenses in education,

and for us in this body to say that such a man's wages are worth eighty-three and one-third dollars a month and no more, is a disgrace to us. I would rather see it stricken out, and I hope Mr. Kearns' amendment will prevail just to save a little of our self respect. We are told to-day that the Legislature can fix it. So far we have been fixing the Constitution so that the Legislature will have no say, and if this is a superior body to what the ordinary Legislature of this State is going to be, in God's name, let us fix it so that they cannot rob the man entirely and make him pay his own expenses. I hope the amendment of Mr. Kearns will prevail.

Mr. LUND. Mr. President, I favor certainly two thousand dollars for the superintendent of public instruction. But I would say that if we must exercise economy this is the place to do it, because he can suit his duties to the amount of pay that he gets. If he only gets five hundred dollars, all that he will do likely will be to distribute the school fund, but if he does what he ought to do he will do at least two thousand dollars' worth of work.

Mr. MAESER. Mr. President, I fully agree with Mr. Kerr and Mr. Goodwin. Why, gentlemen, I have felt terrible when this vote of one thousand dollars was passed as a salary of the superintendent of public instruction. As it has been stated by the speakers before me, if the man is worth anything he is worth that. He ought to devote his whole time for the labor that is required of him to build up a school system throughout our State of Utah, which will be the pride of our State. It is laying the foundation of the foundation of the citizens that are to come—the rising generation, and a man cannot give what he has not got himself. We require one of the best teachers that we have in our State to fill that office, a man that can examine the teachers and judge upon the qualifications of teachers, that can go around in the

schools and set schools right and show teachers in regard to methods of teaching, labor with the trustees and members of trustees, attend the county teachers' institutes, and in all things be an authority in matters of education. We expect such a man, after he has for a term or two served and has laid the foundation for a good educational system in the State to be fitted for re-election, and continue for many terms to come, so that an educational system may be built up in our State that is a pride of our State and a benefit to the rising generation, and a man of that kind will have to devote all his time to this work. He cannot engage in anything else, as some other of these officers that are here will be able to do. Our superintendent of public instruction must devote his whole time. Now, the present incumbent, as it has already been remarked, must make his living by teaching school besides, and therefore he is prevented from attending to his duties in the way in which he should and in which he desires to do, if he was able to do it. I therefore sustain the motion of two thousand dollars.

Mr. KEARNS. Mr. President, I would like to have this motion put separately, not as a whole—to vote on each one separately.

Mr. EVANS (Utah). Mr. President, I arise to a point of order on that; it cannot be done.

Mr. KEARNS. In order to please the gentleman I will withdraw that motion and move to amend Mr. Snow's motion of two thousand dollars on that subject.

Mr. SNOW. I would like to remind the gentlemen of the Convention that this section provides that all these officers, while traveling in the exercise or performance of their official duties, will be paid their mileage—their traveling expenses.

Mr. VARIAN. If the Legislature provides for it.

Mr. SNOW. Well, they will do it, no

doubt about it. I want you to take into consideration that these officers of public instruction—most of his duties will be traveling among the schools, if he performs his duties, and if that is not provided for extra, I think gentlemen are going entirely to the other extreme, when they vote for two thousand dollars. I shall not do it.

Mr. EVANS (Utah). Mr. President, I am opposed to both of these motions and I will try and give you some of my reasons for it. As has been stated here before, while discussing this question, we are now about to start out under the new era and under our State government, and every salary that we raise will have a tendency to decrease the number of votes in favor of this Constitution, providing that those salaries go beyond what the people feel that they ought to be. Now, we have been paying in the past one thousand dollars and expenses necessarily incurred in the traveling of the superintendent of public instruction. My friend from Cache Valley asked this Convention what the result has been. My answer, sir, upon that question is the result has been that this Territory to-day stands third in this grand Union in the cause of education. This has been the result.

Mr. SNOW. Is that due to the efficiency of the superintendent of public instruction?

Mr. EVANS (Utah). I think it partly is, and I see the statement was further made that a man that could be got for one thousand dollars to operate in that honorable position was not worth having. I say, Mr. Chairman, that I stand here to resent such imputation, for I believe to-day that we have an honorable gentleman who holds that position in this Territory and he has operated with credit under the law in the position. I think that one thousand dollars is sufficient, and while it may be a fact that we ought to have a higher system of education, that the superintendent of public instruction perhaps

ought to be required to put in more time, thereby receiving more pay, the same question might be involved in every other officer that we are going to have in our new State, and it is a question as to what we can afford to do, and I am opposed to the motion. We provide here that when the Legislature shall meet they may provide some other salaries for these various officers, but now, in starting out in the beginning of this new State, going before the people with those large salaries, I say that it will be a mistake if we do that. I think that we can get along for at least the term for which the first officers will be elected under this new State, under these salaries, as fixed and passed by the committee of the whole, and then if it shall be necessary, and we see that under the operations of the new State we are able to advance and pay more, thereby requiring better service, then I say it is in the power of the Legislature to fix that so it can be passed upon.

Mr. KERR. Mr. President, I would like to state upon this subject in reply to the statement of the gentleman from Utah County that I stated awhile ago the present commissioner of schools receives but one thousand dollars, it is necessary for him to perform the duties of another office in order that he may make sufficient to live. It is true that the traveling expenses of a superintendent of public instruction will be paid, but men of the learning and ability required to perform the duties of this office can command at least two thousand dollars in almost any other profession, remaining at home, where there are no traveling expenses. The question of traveling expenses therefore cuts no figure here whatever, and I want to say that it may be true as the gentleman from Utah County stated, that men can be found who would be glad to fill this office for one thousand dollars, but gentlemen of the Convention, I repeat my assertion that no man in Utah who is a competent man in that position

can afford to give his entire time to that work for the paltry sum of one thousand dollars.

It requires a man of ability. It requires a man of learning; it requires a man of experience, and if we want a system of public schools in Utah, let us elect to office men who are competent, and men whose experience and learning fit them for this work. If we want men to do this work, we must pay them what they are worth. It was argued here a few years ago that in the University of Utah and our higher educational institutions, it was unnecessary to pay more than a thousand to twelve hundred dollars a year, but it was soon discovered if we have in our institutions of learning men of learning, men of ability, men who are prepared for their work, we must pay those men what they can get in other states, and if a man can get twenty-five hundred dollars a year in Nebraska, we cannot expect him to come to Utah, gentlemen of the Convention, and work for one thousand dollars a year. As to the present work that is being done in our public schools, referred to by the gentleman from Utah, I desire merely to say this, considering all the conditions under which we have been working in Utah, I concede that a fairly good work has been done, but that the work is not uniform—that the system is not by ten per cent. what it ought to be, is conceded by every educator in Utah. Gentlemen of the Convention, I speak from experience.

In the University of Utah during the two years I was there, we received students from every county and almost every district in Utah, and hardly a new student would be received in the institution who had received the same preparation. Visit the schools throughout Utah to-day and you will not find the same methods. You will not find the same system prevailing in the various counties, and in order that we may perform the best work, in order that

we may realize the greatest results from the money expended in our school works, we must have a thorough and uniform system of education, and that I maintain we cannot have except we have a superintendent of public instruction whose learning, whose ability, whose experience, is such as to enable him by devoting his entire time to the work to secure these results. Gentlemen of the Convention, I repeat again, that any man who can afford to give his entire time to this work and who has the ability to do the work is worth two thousand dollars, and I also repeat again that any man who is not worth two thousand dollars in that position, if he gives his entire time to the work, is not worthy of the position, neither is he competent to do the work.

Mr. FARR. Mr. President, it is all very well to talk about high salaries. I like to talk about that; I would like to get them, but I ask this assembly again, where is your money coming from? If we go to work and put these salaries so high that the people when they come to vote upon this Constitution—they are going to sit down on it. Fix those salaries at a reasonably low figure. This salary can be raised by the next Legislature, if they want, that is what it provides for, but if you put it too large to begin with, then it is going to frighten the people, which I do know from my personal acquaintance with the people, that they are thoroughly done I think, and I would like this body of men to consider this. We could start in reasonable, it is all very nice for us to talk about high salaries, we all like it, but I ask you again, where is your money coming from? All the other states are insolvent—nearly every one. They cannot pay their debts to-day; shall we follow them to-day? No, gentlemen, we must pause and consider and start in as we can hold out and let the Legislature fix those matters as it is reasonable.

Mr. KERR. Do you not think that it

is not only possible but probable that a competent man as superintendent of public instruction, worth two thousand dollars, giving his entire time to his work, will better accomplish the work and save many times to the State the amount in expenditures in the work in the school system of the additional salary paid?

Mr. FARR. I will answer it in this way, I believe in getting a man that is capable without taxing the people to death.

The roll being called on the motion to fix the salary at two thousand dollars, the result was as follows:

AYES—48.

Adams	Lund
Bowdle	Maeser
Brandley	Mackintosh
Button	Maughan
Call	Moritz
Cannon	Murdock, Summit
Coray	Nebeker
Crane	Page
Cushing	Peterson, Grand
Eichnor	Pierce
Emery	Roberts
Francis	Robinson, Kane
Goodwin	Sharp
Green	Shurtliff
Hart	Squires
Haynes	Stover
Hill	Strevell
Hughes	Thatcher
James	Van Horne
Kiesel	Varian
Keith	Warrum
Kearns	Wells
Kerr	Whitney
Lambert	Williams.

NOES—49.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lowe, Wm.
Boyer	Lowe, Peter
Buys	Low, Cache
Chidester	Maloney
Christiansen	McFarland
Clark	Morris
Creer	Murdock, Beaver

Cunningham	Murdock, Wasatch
Driver	Partridge
Eldredge	Peters
Engberg	Peterson, Sanpete
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Ricks
Gibbs	Robertson
Hammond	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Howard	Thompson
Hyde	Thoreson
Ivins	Thorne
Jolley	Thurman.
Kimball, Salt Lake	

ABSENT—9.

Corfman	Miller
Johnson	Richards
Kimball, Weber	Ryan
Lemmon	Spencer.
Lewis	

The president declared the motion lost.

Mr. CREER. I desire to be excused from voting. I would vote no. I am in favor of the gentleman's motion from Washington, of fifteen hundred dollars.

Mr. GIBBS. I vote no on this proposition, but I would like to vote yes on Mr. Snow's.

Mr. HAMMOND. I vote no on this, but I would like to see the whole thing stricken out and left to the Legislature.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2 o'clock p. m., President Smith in the chair.

The PRESIDENT. The question before the house is on the amendment of Mr. Snow, in line 22 of the section, "The superintendent of public instruction shall receive fifteen hundred dollars."

The amendment was agreed to.

Mr. KERR. Mr. President, I move you that line 17 be amended so that the salary of the governor shall be two thousand dollars per annum instead of twenty-five hundred.

The question being taken on the amendment, the Convention divided, and by a vote of 30 ayes to 27 noes, the amendment was agreed to.

Mr. HART. Mr. President, I move to amend in line 20 by striking out the sum of one thousand dollars and inserting lieu thereof the figures 1,250. That is not as high as it should be, but it may meet the approval of the Convention.

Mr. KEARNS. Mr. President, I offer an amendment to that to make it two thousand dollars. Gentlemen of the Convention, I will say this in regard to that, if you place the salary at a thousand dollars it has a tendency to drive it into the banks of Salt Lake City. No poor man can ever hold the office. He cannot get before the people in the first place for a thousand dollars. The Territory will never know who he is. In the next place, he will not be able to give a bond. You are making by this salary the object of a treasurer to throw it into the hands of capital alone. Therefore, I favor a salary of two thousand dollars.

Mr. HART. Mr. President, the bonds of the present treasurer, I am informed, are in the sum of \$325,000. In other words, he has to have sureties justify in the sum of \$650,000. It was stated on the floor of this house the other day that some two or three months' work would be all that the duties of the office of treasurer would require. I am credibly informed that it consumes fully nine months of the year to perform the duties of treasurer, and, Mr. President, in regard to what the treasurer has received heretofore, previous to the last session of the Legislature, the amount appropriated for the treasurer for the two years was twenty-five hundred dollars, and eight hundred dollars for stationery and office rent; this would give a total of thirty-three hundred dollars for the two years. Now, as I understand it, under this salary of one thousand dollars per year, he would be obliged to pay out of that the sta-

tionery, the office rent, and provide his bonds, in perhaps the sum of not less than half a million dollars. In order to get a man who will not have Canadian inclinations, I think it would be necessary to give him a little higher salary than one thousand dollars a year. I would favor fifteen hundred rather than two thousand, in view of the amounts fixed for the other salaries.

Mr. ELDREDGE. Do I understand the gentleman to say that he expects that the treasurer will pay his own office rent, or that the government should furnish him an office?

Mr. HART. Under this section, I am of the opinion that the one thousand dollars would include stationery. I may be mistaken about that.

Mr. ELDREDGE. And office rent?

Mr. HART. I do not see any provision for office rent. Traveling expenses remain there.

Mr. ELDREDGE. You would infer from this section that he paid his own office rent as well as his own stationery?

Mr. HART. I have not examined it very closely, I will say that, but that is my impression from my remembrance of it.

Mr. EVANS (Utah). I would like to ask Mr. Hart, did I understand you to say that they had appropriated twenty-five hundred dollars for the two years for his salary?

Mr. HART. Yes, sir; twenty-five hundred dollars previous to the last session of the Legislature.

Mr. EVANS (Utah). Previous to the last?

Mr. HART. Yes, sir; the last session of the Legislature designed for the treasurer to have one thousand dollars per annum, aside from stationery and office expenses, but by a mistake in the enrollment of the bill the part that was stricken out on amendment—that stationery and office rent was by mistake included, so that unless that matter is remedied the treasurer will have to pay

his office rent and stationery out of the one thousand dollars per annum.

Mr. EVANS (Utah). I would like to ask the gentleman one more question, whether he knows of such a thing in this Territory of an officer having to go to such a company as you indicated in your argument to get sureties?

Mr. HART. Well, since mentioning the matter the other day I am informed that no surety company will give such a bond.

Mr. EVANS (Utah). That is not the question. Do you know of any—

Mr. HART. Yes, I do; I know that the present treasurer attempted through a period of something like two weeks to get a surety company to give his bond.

Mr. EVANS (Utah). That is not my question at all. I asked if you knew of any person who had paid sureties to go on his bond?

Mr. HART. Oh, no.

Mr. EVANS (Utah). Well, then that settles that part of it.

Mr. HART. But he is placed under obligations of course to the men who go upon his bond and it is no slight matter to go around and solicit a six hundred fifty thousand dollar bond from your friends.

Mr. EVANS (Utah). Mr. President, I hope that this motion will not prevail. I believe that a thousand dollars is every dollar that we ought to pay. It seems as though we lose sight of the fact that this paragraph as reported by the committee provides that the Legislature may make such changes as they deem proper. It is not being fixed, it is not as the laws of the Medes and Persians, but we are fixing it now upon trial which at most, if the Legislature shall deem advisable to make a change, it will only be for two years.

Mr. FRANCIS. Four years.

Mr. EVANS (Utah). Is it four years? I understand it is not to take effect during their term. I would ask whether

that is the fact—whether the treasurer is elected for four years.

Mr. EICHNOR. Yes, sir; all the executive officers.

Mr. EVANS (Utah). Now, Mr. President, I have taken the position before upon this question and I re-assert my position again, but I am going to make two or three illustrations that have not been referred to here. We must remember in the fixing of these salaries the work to be done; it is true that we must take into account the responsibility by reason of the heavy bonds, but in answer to that I submit that I do not know of a single case in this Territory where a bondsman has been put to any inconvenience by reason of going upon the bonds of any of our territorial officers. Now, that presents the fact that by reason of that bondsmen will be more easy to obtain than they would otherwise. So far as the actual labor is concerned of this office, I believe that a thousand dollars will pay and pay them well.

The labor is not a very great deal connected with this. The responsibility is the great part, but now where is this money to come from? Permit me to say to you, sir, that I had the honor of taking the statistics of the city in which I live and also American Fork, which adjoins, and we are confronted with this startling fact that after I had completed that labor, for my own satisfaction I made this investigation, I began and I took the farmers, those owning five acres of land or more. I did not include in the computation those only owning their homes and their gardens, and I carefully went over that and I find that after I had concluded that, including the land, including their teams, and their harnesses, and their farming utensils, and their labor upon it—I was confronted with the startling fact that an average of all the farms in Lehi City only amounted to four hundred dollars including their labor and their capital invested. I find the same thing, sir, in

regard to American Fork, and it fell some little short of the four hundred dollars on an average, and I submit to you gentlemen of the Convention that that is from the men whom we are seeking to tax for the purpose of paying these salaries, and I ask you to call a halt and ask yourselves the question whether you are willing. These are the facts we have got to confront when we present this Constitution to the people and ask them to ratify it, and they are the people you will have to depend on for its ratification. I submit to you, upon a question of justice, is there any reason why that class of men should be taxed when their whole income including their time and their capital invested only aggregates the amount upon an average of four hundred dollars, that we shall tax them to pay men two thousand dollars for taking care of their taxes? I do not think this Convention is ready to submit any such a thing, and I am willing to trust it to them.

Mr. FARR. Mr. President, I am pleased to see that I have got one man converted and I hope there will be a number more. I presume that you will remember—there does not many of us do—that the treasurers served Utah for twenty years for five hundred dollars a year. True, their bonds were not as high as they are now, but their labor was about the same to do, and I want it kept before the minds of this honorable body that if they expect this Constitution to be ratified, they have got to get the people of the Territory to vote for it, and I can tell you if we do not keep these salaries down, they may not vote for it. Just as the gentleman has said, in regard to the condition of the men that pay the taxes, they are that way all through the Territory, they are the men we are to expect the money from to pay the taxes and if we do not make the salaries reasonable to start with we won't get the votes. I

want this kept in mind before this honorable body.

The amendment of Mr. Hart was rejected.

Sections 21, 22 and 23 were read.

Mr. HOWARD. Mr. President, I wish to call attention to section 8. I do not believe it was the intention of the committee that drafted this article to give the governor absolute veto power, but I claim that this section gives him that right. Now, any important bill that might be passed by the Legislature in the closing days of the session might be referred to the governor, and then the Legislature adjourn. If the Legislature passes an appropriation bill and the governor objects to any portion of it, either one or two or more sections, and the Legislature refers it to the governor and in the meantime the session comes to a close, the governor can veto those sections or the whole of it.

The PRESIDENT. Has the gentleman got any motion to make in regard to this?

Mr. HOWARD. I just wish to call the attention of the Convention to this and find out whether it is intended to leave it in that condition. I believe I could offer an amendment, but I have not had time to do so.

Mr. HART. Mr. President, I have an amendment to offer to this section—a matter that escaped my attention when we considered it the first time, and I therefore mention it now. I move you to strike out of section 8, in line 23, the words "sections or," and in the next line strike out the same words, "sections or," and in line 27 strike out the words "section or sections," and in line 29 strike out the word "sections," and insert in line 23, after the word "items," the words "of appropriation of money." And in line 24, insert before the word "items" the word "such." I think this section as it now stands without this amendment would be a very radical departure from the provisions of consti-

tutional law that prevail in the United States. Since this matter was brought to my attention, I have examined every state constitution on the subject and I find that there is only one state in the Union, or possibly two—I am not sure about the second, however, that provides for a similar veto power of the governor as is provided by this section as it now stands. The following states, Mr. President, permit a veto by the governor of an item or items of appropriation bills.

New York, Alabama, Arkansas, California, Colorado, Florida, Idaho, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, North Dakota, South Dakota, Texas, West Virginia, and Wyoming, provide simply for the veto by the governor of an item or items of an appropriation bill, but the following states, Mr. President, do not even give the governor that power; he has to veto a bill as a whole and he is not even given the power to object to an item of an appropriation bill; these states are: Connecticut, Georgia, Indiana, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, Oregon, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and Wisconsin, and the only state in the Union, Mr. President, that provides for a similar veto power of the governor as is brought forth here is the state of Washington. The constitution of Illinois possibly may provide for a similar power, although it is doubtful to my mind, at least from the hurried examination that I gave to it. It clearly gives him the power to veto an item of an appropriation bill, but whether it gives him further power than that I am not clear. I think it would be a serious departure from established precedent. I do not think there is any reasonable doubt about it.

Any such power as this in the governor, for my own part I would almost as soon vote to give the governor an absolute veto power as I would to per-

mit him to veto any particular section or sections of an ordinary bill. For this reason, it would give a few members a greater power in the Legislature than a majority, and a few members, with the assistance of the governor, would have absolutely more power than the majority of the convention would. In the making up of the bill a series of compromises takes place. Each individual cannot have his own way, but after the bill is agreed upon, there may be a very large majority who would be in favor of putting it through section for section as it stands. There might be two-thirds who would be willing to have a bill enacted in the form that they pass it, and yet if the governor vetoed one section, by the opposition of a few men, unless you could get two-thirds majority who would stand by that particular proposition, the governor would have the right to exclude that, and although a majority might wish to have that section remain, although a two-thirds majority might be willing to pass upon the bill as a whole, yet a few might be willing to exclude one particular section. I do not think, Mr. President, that we should follow after Washington on this very doubtful experiment to say the best. I think that the states that permit the veto of an appropriation item adopt a wise plan. They are in the majority, although you will observe there is a very large minority that does not even give that power. I think that we should not exceed the powers that are given by a majority of these states to their governors in the veto of appropriation items. If my amendment prevails, we will then have a Constitution that is almost exactly similar word for word to the constitutions that I have named. It would be almost word for word the same as New York on this subject, and the other constitutions that I have named. I trust the amendment will prevail.

Mr. FARR. Mr. President, I have read this section over pretty carefully; I do not know who the committee were; I know most of them. It suited me very well. We ain't making a constitution for those other states; we are making a Constitution for Utah, and we are the body of men to tell what is best and if this suits us, I am sure I do not care about suiting anybody else. There is nothing unreasonable or unconstitutional in this and it suits me very well, and if it suited the committee and this Convention I am in favor of it.

The amendment of Mr. Hart was agreed to.

The PRESIDENT. The question is now on the adoption of the entire article.

The roll being called, the result was as follows:

AYES—90.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Boyer	Maeser
Brandley	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christianson	Moritz
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane

Goodwin	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Halliday	Shurtliff
Heybourne	Snow
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thatcher
Johnson	Thompson
Jolley	Thoreson
Kearns	Thurman
Kerr	Van Horne
Kimball, Salt Lake	Varian
Lambert	Wells
Larsen, L.	Williams.

NOES—2.

Green	Haynes.
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ABSENT—14.

Button	Lund
Crane	Miller
Hill	Richards
Kiesel	Spencer
Keith	Thorne
Kimball, Weber	Warrum
Lewis	Whitney.

Mr. EICHNOR. Mr. President, I vote aye, expressing my disapproval of section 12.

Mr. MALONEY. I vote aye, but I object to sections 12, 13, 14, and 15.

Mr. HOWARD. I wish to vote aye, although I object to giving the governor the veto power.

The PRESIDENT. The article on executive has been adopted, gentlemen, and under the rule goes to the committee on compilation.

The Convention then proceeded to the consideration of the article entitled labor.

Section 1 was read.

Mr. ROBERTS. Mr. President, I move you, sir, that section 1, together with the title and all other sections of this article, be stricken out. I wish to say my motion to strike out this article does not arise from any hostility to labor or making provisions for its pro-

tection, but I am of the opinion that this article is altogether useless for the accomplishment of the purposes designed by drafting it, as a part of this Constitution. I shall not at all be afraid of offending laborers, since I myself am one, but it seems to me, sir, that they are uselessly cumbering this Constitution with a provision that is absolutely worthless, because there is not a proposition in it but what can be evaded both by capital and by labor, and I believe, sir, that the true interests of labor can be subserved if the State shall provide for securing the rights of the individual which are provided for in the bill of rights and which in fact are provided for throughout the Constitution, and by the recognized principles of law in our country, and since I regard the whole article as useless, for one, I am not willing to give my voice to putting in this much lumber into the Constitution. And therefore, I am in favor of striking this whole thing out.

Mr. Evans, of Weber, offered the following as a substitute for the entire article:

Section 1. The Legislature shall provide by law for a board of labor arbitration, which shall fairly represent the interests of both capital and labor, and it shall be the duty of said board, under such regulations as may be provided by law, to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employees.

Section 2. The exchange of blacklists between corporations shall be prohibited.

Mr. RYAN. Mr. President, I hope this will not prevail, either the motion to strike out or the substitute. This Convention has taken the trouble to appoint a committee on labor and they have made a report. It passed the committee of the whole; it has been amended and now it is before the house and if it is not just what we want we will try and amend it as it goes along and without making any further remark, because it was well discussed the other day, I sim-

ply enter my protest now against the striking out of this article.

Mr. STREVELL. Mr. President, I would simply like to endorse the words of Captain Ryan. The committee has wrestled with the question. The committee of the whole has done the same, and while we do not claim that it is a perfect article, we believe that it will go a long way and that it will be able to accomplish some good. I hope the article will not be stricken out.

Mr. KEARNS. Mr. President, I agree with my friend on the right. I cannot favor the motion of Mr. Roberts to strike out. I think it is the duty of every man in this Convention to throw around the laborer of this Territory all the protection we can. We have been through this article once and I think we can fix it up where it will be a protection for the laborer of our future State, and it is our duty to do so, and I oppose this motion to strike out.

Mr. CANNON. Mr. President, I am opposed to the substitute and also to the motion to strike out. This matter was referred to a committee and was carefully considered by that committee and afterwards brought before the Convention and discussed thoroughly in committee of the whole. I am in favor of the original article as amended in committee of the whole, and opposed to both motions before the house.

Mr. ANDERSON. Mr. President, I am also opposed to the motion to strike out and also the substitute. I think that the article as reported by the committee should be adopted and therefore I shall support it.

Mr. MURDOCK (Beaver). Mr. President, I am also opposed to striking out the article as it now stands for the very good reason that labor is one of our great resources, we must recollect, and the influence that it would have on the labor community would be I think very detrimental. To say that we had such an article under our supervision,

and to set it aside without any reasonable grounds for doing so, I think it would be very detrimental. It would show to the laboring community that they were of little or no moment in the community, and for that reason I believe it will be to our interest and the interest of this Constitution and to the people generally to retain that in the Constitution, that they also may be protected with other interests.

Mr. EVANS (Weber). Mr. President, I would like any gentleman to explain to me if he can how the Legislature or how the new State can compel a private individual not to make discrimination between man and woman in his employ. If those matters referred to public works it would be a different thing, but how is the State to regulate what a private individual shall do in the employment of labor? It is simply out of the question. It would be a dead letter upon the statute books and would be without effect. There are many things in this article that I believe in. I think the substitute, however, covers everything that is of an important character. Slight troubles or difficulties between labor and capital and all those other matters are merely matters which ought to be left to the Legislature, except one other matter which I have urged before. If any gentleman can explain to me how the Legislature of the new State can enforce the payment of the same kind of wages, regardless of sex, I would like to hear the explanation. That is, if a man is to employ two clerks, one woman and one man, under this it would be contemplated that he paid both of them exactly the same wages. Can that be done? Not considering the question whether it is right that these two persons should receive an equivalent amount of pay for the same kind of work, how can we regulate that? How can we compel it. How can we enforce it? It would bring interminable trouble, I think.

Mr. STOVER. I would like to ask

Mr. Evans if he does not understand that in Great Britain the laws prohibit the employment of women and children in mines?

Mr. EVANS (Weber). I said nothing about that. That is something I would be in favor of prohibiting. That is a part of the section. This first subdivision, but I will ask the Captain whether he knows of any such employment in this Territory, and what the occasion for this constitutional provision is?

Mr. STOVER. Why, to prevent it.

Mr. EVANS (Weber). It has never occurred. If it should occur and be abused the Legislature would have ample and plenary power to legislate for it. The constitutional restrictions are only put in for the purpose of averting or preventing some existing evil. We have not had it yet. We are simply apprehending something that will probably never occur, and if it does occur, the Legislature can probably provide for it.

Mr. THURMAN. Mr. President, I agree with the gentleman from Weber that the Legislature will have no power to prevent discrimination in wages on account of sex. I only regret that he cannot see as I do that attempting to prevent an exchange of blacklists stands on the same principle. One is equally impracticable with the other, but in so far as this question of discriminating in wages is concerned, we agree and I support him fully in all that he says. I am in favor of the motion to strike out the article. I know that it may be said that a man has got a pretty hard face to stand up and make a motion of that kind, but I have too much confidence in the intelligence of the laboring classes in this country to believe for one moment that they will be caught by a meaningless, useless, lumbering provision in the Constitution of the commonwealth. There is not a gentleman on this floor but will manfully admit that the Legislature has full power to do everything that we

here require them to do, and that all we are doing is that we are confining them to a means which one of these days, when the Legislature learns the question with which it had to deal, will be trying to find some other means with which to deal with it, in the interests of labor, and the Constitution will say, "you are confined to a board." Gentlemen, there is where we are bringing ourselves to, and I warn you now to call a halt if you are in the interests of labor. If indeed you want to conciliate the laboring man, give the Legislature of the future who will come from the people power to appoint, not only a board but boards or tribunals, or whatever they may please to call them, by which this question of the relation existing between capital and labor may be dealt with in the most convenient manner for the benefit of labor.

I say, gentlemen, that the man who stands here to-day, moving to strike out this article, root and branch, is the real friend of labor, while you are tying up the hands of your Legislature in the future, holding them down to a method which may or may not prove effectual for the purpose, and say, "you cannot deal with this question, except you deal with it exactly in the manner that we have pointed out." Let us grant this motion, strike it out. If you want to put in a simple provision in here to the effect that the relation existing between capital and labor is hereby recognized, and that the Legislature shall have full power to adjust the relations between capital and labor—adjust the difficulties—do that. I am with you. But when you undertake to go into detail and fix a specific method which may not prove effectual I shall be found voting no.

Mr. EICHNOR. Mr. President, it is the usual plea, "I am the friend of the laborer. I am the friend of the working men." But whenever they are put to the test to show their fruits and show their colors, then it is in the distance.

I hope that no gentleman will misunderstand the question before the house. Every person that votes aye votes in favor of the substitute. Every person that votes no is voting for the article.

Mr. JOLLEY. Mr. President, we have had this article up before and it has passed the second reading, and it reminds me the way the laborer has been treated in many instances in the past; he has been downed and kicked, and scratched, and maltreated; we have had labor on the floor; we have had it down under our feet; we have scratched it, and we have almost erased it from this article that is before us. If there is anything wrong in whatever there is left, I would think there is talent enough here to straighten it and to amend it. Yet, there is a little left. There are a few of the rags left of it, by amendment, but let us not strike it out. Therefore, I oppose the motion. I do not think it is wisdom to kick labor clear off the floor on this question.

Mr. SNOW. Mr. President, I would like to correct an impression that would be gathered from Mr. Eichnor's proposition, that those that vote no vote in favor of the article. I understand there is still a motion before the house to strike out this article.

Mr. HAMMOND. Mr. President, I am in favor of the substitute and shall vote for it. If that fails I vote for the striking out of the whole article.

Mr. HART. Mr. President, if the substitute be adopted, then the motion to strike out could not prevail at all. By putting the motion to strike out first it virtually permits a division of the question. Mr. Varian, while in the chair the other day, gave a ruling to that effect, and it seems to me that it is the only reasonable position that could be taken to put the motion to strike out before the substitute, for the reason that if the substitute should prevail why the motion to strike out could not be put,

and we vote to strike out something that we have just inserted.

Mr. PRESTON. Mr. President, I like the substitute better than the section as it now stands, but I want the privilege of voting in favor of striking out the whole article. I would rather have the whole article stricken out than the substitute, and if one cuts the other off, then I ask for the motion to strike out to be put first.

Mr. EVANS (Utah). Mr. President, might I be permitted to make a suggestion? If this substitute prevails, it ought to be put first and if it prevails it will kill the others. It is an amendment to the amendment and in the nature of it, it will kill the whole thing. Then a motion could be made to strike that out, if you would so desire, but as I take it, if this substitute prevails, then it destroys both of the other motions and becomes the question before the Convention. If it is killed then the motion to strike out the substitute will be in order, and if that prevails that will kill it and then there will be nothing before the Convention.

Mr. HART. Do you hold that after voting to insert the substitute that we could afterwards vote on that same subject to strike it out?

Mr. EVANS (Utah). I hold, sir, that any motion, either to strike out and insert or to strike out without inserting or to substitute, is nothing more nor less than an amendment and the rule is here that will bear that out. Then, upon that theory, this substitute being an amendment to the amendment that was offered by Mr. Roberts, if that prevails, by reason of its nature, as an amendment, it will kill the whole question, both the original article and the amendment, and that becomes the question.

Mr. HART. The trouble is simply this, we are voting on the same subject twice.

Mr. HYDE. Mr. President, I am in favor of the substitute for the reason

that I think it will have the same effect and I do not think the article as it now stands in the Constitution will be of any benefit to the labor interests. Now, I am a laboring man myself, and every act of my life I think will show that I am a friend of the laboring man, but I do not think that voting for this article as it now stands is showing any particular friendship for the laboring man. I shall support and vote for the substitute.

Mr. SQUIRES. Mr. President, in view of what Mr. Hyde has just said, I must call the attention of the Convention to the fact that if this article is not just as Mr. Hyde would like it, we can vote down this substitute and amend the article and make it just as we want it, but if either one of these motions prevails, it will put it out of our power. I am opposed to either one of these motions.

The roll being called on the substitute offered by Mr. Evans, of Weber, the result was as follows:

AYES—19.

Boyer	Hyde
Creer	Ivins
Cunningham	Low, Cache
Evans, Weber	Maeser
Evans, Utah	Preston
Farr	Roberts
Hammond	Robertson
Hart	Thatcher
Howard	Thoreson.
Hughes	

NOES—64.

Adams	Lowe, Peter
Allen	Mackintosh
Anderson	Maloney
Barnes	Maughan
Bowdle	McFarland
Brandley	Morris
Button	Moritz
Buys	Murdock, Beaver
Call	Murdock, Wasatch
Cannon	Murdock, Summit
Chidester	Nebeker
Clark	Page

Coray	Partridge
Corfman	Peters
Cushing	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Pierce
Eldredge	Robinson, Kane
Emery	Robison, Wayne
Engberg	Ryan
Gibbs	Sharp
Goodwin	Shurtliff
Heybourne	Snow
James	Squires
Jolley	Stover
Kiesel	Strevell
Kearns	Symons
Kerr	Thompson
Lambert	Thurman
Larsen, L.	Van Horne
Larsen, C. P.	Varian
Lowe, Wm.	Wells.

ABSENT—21.

Christianson	Lewis
Crane	Miller
Francis	Raleigh
Green	Richards
Halliday	Ricks
Hill	Spencer
Johnson	Thorne
Keith	Warrum
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams.
Lund	

PAIRED—2.

Haynes	Lemmon.
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The PRESIDENT. The substitute is lost.

Mr. Maloney offered the following amendment:

Insert at end of section 1, the following:

Whenever a disagreement or controversy arises which cannot be settled by conciliation or mediation, the same shall be sent to the board of labor, conciliation and arbitration for settlement, and arbitration by the parties in interest and the decision of the said board shall be final and shall be enforced by the court in whose jurisdiction it occurs. Pending such arbitration proceedings, no employe shall be discharged. Whenever receivers appointed by the State or

federal courts are in possession are control of railroads, their employes shall have the right to be heard in court upon all questions affecting them through the officers and representatives of their associations, whether incorporated or unincorporated. No reduction of wages shall be made by such receivers without the authority of the court after due notice to such employes.

The amendment was rejected.

Mr. THATCHER. Mr. President, I am not able to vote for that article as a whole, but inasmuch as it contains the virtue of striking against blacklisting, I would vote for the whole provision rather than lose that. I know individuals now who last year took part in the great strike, who were discharged because they used their rights as American citizens to try to protect themselves. I know of individuals who went to Canada because they were discharged and a blacklist followed them there—followed them back into the United States on the Northern Pacific railroad, and it is impossible for them to get employment in this country, and they are preparing to go to Mexico. I am in favor of any provision which shall say once for all that corporations shall not follow American citizens as bloodhounds once followed the escaping slaves. [Applause.] And for that reason, I shall vote against the striking out of this provision. I shall vote in favor of the provision, although it is crude. I think it could be amended.

Mr. JOLLEY. You mean that you would rather sustain the article as it is here than to vote for the striking of it out, is that it?

Mr. THATCHER. Yes, sir; I will vote for it because it has that one virtue in it.

Mr. PIERCE. Mr. President, I arise to a point of order. A motion to strike the whole article out is not in order. That motion would properly come up upon the question as to whether we should adopt the article or reject it upon the final vote.

The PRESIDENT. I think the point

of order is well taken, although we have gone over a good deal of ground in connection with it.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. I did not desire to take up the time of the Convention, but you can see very well that as fast as one is done away with, if another is permitted to come in, as it has been doing, perhaps the motion to strike out would not be reached to-day at all. Now, I submit to you that when there is an amendment made to any article and that has been amended and the vote begun to be taken on that amendment, it must continue until they reach back to the original article. Then it is subject to amendment.

Mr. SQUIRES. We are considering this article, and if there is not a constitutional majority it will certainly be stricken out.

The PRESIDENT. We have got back to the original article and amendments are in order.

Mr. EVANS (Utah). Will you be kind enough to explain what becomes of the motion to strike out? My contention is and my point of order is this, that the motion to strike out is not a simple amendment. That was amended by the gentleman from Weber and that has been voted upon. My contention is then the amendment which proposes to strike out should be voted upon. Then the article is susceptible of being amended and also an amendment to the amendment again, but not until.

The PRESIDENT. The chair will entertain any motion looking to the perfection of this.

Mr. ROBERTS. Is it the decision of the chair that the motion to strike out is not now in order?

The PRESIDENT. The chair rules that the effort to perfect the article was in order and amendments should be received.

Sections 2 and 5 were read.

Mr. RYAN. Mr. President, I wish to amend by adding a fifth paragraph to

section 5, as follows: "The Legislature shall protect employes from political and commercial control." I stated my reasons for such a provision the other day, and it is unnecessary now to review them, as I think all the members are here now that were here then. If we do anything at all for labor, I think we should first liberate it from political and commercial control. That is the object of that amendment.

The amendment of Mr. Ryan was agreed to.

Mr. PRESTON. Mr. President, I move in section 5 to strike out in line 5, "discrimination in wages on account of sex." It is inoperative. It would be impossible to make that operative.

Mr. CANNON. Mr. President, I am opposed to the motion to strike out. I think we have just as much right to place this provision in as many others that are contained, and I believe there is a reason for it. There has been in almost all ages a discrimination on account of sex, not because of the difference in work, not of the difference in the amount performed, but simply because of sex. There are instances in this Territory where parties at the present time contract for certain kinds of work. I would instance the case of tailors, where clothing has been manufactured or made, by tailors, and where there has been a discrimination on account of the sexes that were employed. The articles made are sold to the public without a difference in price. The work is performed just the same by the lady tailors as by the men tailors, and yet there has been a difference in the price. There has been, too, at different times and in some places, a difference in the amount paid to those who were engaged as typesetters, and in different employments, and this provision is intended to prevent anything of this kind. It does not aim to regulate what shall be paid to employes when they work side by side, simply because one is

a man and the other is a woman, that they shall receive the same wages, it does not attempt any such thing as that, but it does provide that where a man and a woman work side by side and perform the same work that they shall receive the same pay and that no discrimination shall be made.

Mr. VARIAN. Does the gentleman understand that this Convention or any legislative body has a right to determine the principles of contract between citizens, and say that you shall or shall not discriminate in the matter of wages between employes?

Mr. CANNON. Yes, sir; I think that the Convention has the right to say that as between two persons who perform the same work equally well, there shall not be a discrimination because one happens to be a woman and the other a man. I think we have that right.

Mr. GOODWIN. Is not that already disposed of in another article, where it brings women down to the level of men? What is the use of duplicating it? I shall favor the striking out, unless there is an amendment added that if this goes the girls shall pay for half of the ice cream and soda water.

The PRESIDENT. The gentleman will please send up his amendment in writing.

Mr. PRESTON. Mr. President, the gentleman from Salt Lake might just as well undertake to make the wages of all men equal as to undertake to make the wages of women equal with men; it cannot be done; it is inoperative. The supply and demand will govern the question and it cannot be regulated in any other way.

The question being taken on the amendment of Mr. Preston, the Convention divided, and by a vote of 46 ayes to 22 noes, the amendment was agreed to.

Sections 7, 8, and 10 were read.

Mr. EVANS (Utah). I move that section 10 be stricken out.

The motion was rejected.

Mr. Kearns offered the following as an additional section:

Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, or municipal governments, and the Legislature shall pass laws to provide for the health and safety of employes in factories, smelters, and mines.

Mr. JOLLEY. Mr. President, I would like to amend by inserting counties as well as State and municipal governments.

Mr. KEARNS. That covers it. I accept the amendment of Mr. Jolley.

Mr. HOWARD. Mr. President, I am opposed to the amendment of the county being inserted in there.

Mr. PRESTON. Mr. President, that motion is not in favor of laboring men, to give them eight hours' labor in a day, because they will only get eight hours' pay and they cannot live on eight hours' pay, or at least prosper on it, in this country. I have never been able to do it. I am a laboring man, with the best of laborers; I do not care where they come from or what country they come from, and I have not been able to get along with eight hours' work in a day, nor they cannot unless they wish to continue to be laborers all the days of their lives and never rise to the dignity of proprietors in any kind of business. If they wish to be serfs in the land, then let them be confined to eight hours' labor and get eight hours' pay. That is all they will get; it cannot be done.

Mr. CREER. Mr. President, I am opposed to the amendment interjected by the gentleman from Sanpete County, that is, that it may mean counties as well as cities, for the reason that no doubt that would govern poll tax, and one thing that we need more especially than another is better roads in our new State, and I think that the poll tax payer had just as soon work ten hours as eight; in order to keep up with the advancing prosperity we want good roads.

Mr. JOLLEY. Mr. President, we cannot get our people in Sanpete to put in more than eight hours good solid work on poll tax, and there is no reason for asking them to do it.

Mr. KEARNS. Mr. President, I hope that this section will prevail. It is the custom in all the late constitutions that eight hours is a day's work in all county and municipal works of that kind. And poll tax that the gentleman refers to, if he puts in eight hours for the pay that is in it he would be satisfied.

Mr. CREER. I have put in ten hours.

Mr. KEARNS. I hope the section will prevail.

Mr. MORRIS. Mr. President, I favor the eight hour labor on the ground that there is not enough of labor for those that want to be employed. That is one good, sound reason, in my opinion. There is not enough labor in the country for the working men to-day, and it is a good proposition to divide it so that all may have a chance to get an opportunity. Permit some to work ten or twelve hours a day when the others cannot work an hour a day—for that reason I favor the proposition.

Mr. ANDERSON. Mr. President, I hope this motion of Mr. Kearns will prevail; I think it is a good provision and should be adopted.

Mr. HAMMOND. Mr. President, I hope it will not prevail for the very reason that Mr. Morris says, that there is not labor enough to go around. Leave it with the Legislature and when there is plenty of labor, why, then let it go around.

Mr. EICHNOR. Mr. President, a number of the gentlemen say that they are laboring men. I have labored as high as fourteen hours a day and sixteen hours a day, but I believe eight hours for work, eight hours for improvement, and eight hours for rest will produce a race of nature's noblemen. I am in favor of an eight hour system; and I believe when it is properly understood

it will not work to the detriment of capital but to the benefit of capital, because when a man works eight hours and has a few hours for improvement and enough time for rest, he will do much better work.

Mr. JAMES. Mr. President, I think I will have to take issue with our working friend, Mr. Eichnor. I hardly agree with him. I am afraid he makes a mistake. I am afraid he conceives something that he thinks is working, but if he had to apply it, he would discover that he had made a mistake. Now, gentlemen of this Convention, I am not going to say it, egotistically or braggingly, but I say I am a working man. I was brought up a worker, I was reared on a farm, and I came with the ox teams over the plains before the railroad was built. I have filled every position in a mine from a shoveler in the day rate to the manager and owner of property. I do not believe in my time that I ever came in contact with a man that I believed could do a better day's work than I could. That is a manual day's labor. Now, Mr. President, when any gentleman stands upon this floor and tells you that eight hours as a uniform day's labor is a proper thing, he just simply does not know what he is talking about. I say to you, Mr. President, that there are different classes of work; I say to you, Mr. President, that men come to me daily for employment, that beg me to give them twelve hours a day's work in preference to eight. Why? Because that twelve hours a day labor is a different proposition from eight hours. We have got eight hours in our mines, we have ten hours in our mines, and we have twelve hours in our mines. Our engineers as a rule running machinery all work twelve hours and they are willing to take it. Why? Because you could not have a ten hour shift. Your machinery must run continuously, you cannot afford to put three engineers on.

Mr. KEARNS. This does not apply

to your engineers at all. This is just public works—State buildings.

Mr. JAMES. Well, the public works have engineers.

Mr. KEARNS. You are speaking of your own men.

Mr. JAMES. You hamper the operation of your public works in that manner of dealing with a day's labor. Now, I want to say to the gentlemen here that are trying to legislate in the interest of labor, that they are very apt to overdo this thing. I do not permit any man to be any more of a friend to labor than I am. I have been a friend of labor because I was brought up in it. I have not only worked at it, but I have been the employer of labor for the last thirty years. Now, you can go to Omaha and have a lesson of what you are trying to do in this Convention today. Two years ago the municipality of Omaha passed an ordinance compelling eight hours a day's labor. My friends, it caused almost a riot in that town in a short time. The laboring men said they would not stand it, or would not submit to it; why, because, as the gentleman has said here, a little while ago, on this floor (Mr. Preston), they got eight hours' pay and they were not permitted to work any longer. Why, it is in the interest of the employer of men every time to have eight hour a day men. Why, it is like the machinery, if you have a piece of machinery that you have got to crush right up to its very utmost that it is put there to do, does not that machinery soon work out? On the other hand, if you have machinery there to do that work that one-half its capacity will perform the labor, won't that machinery hold up? But here you take your eight hour a day man and of course he feels like playing half the time. You pay him for only eight hours and the result is he does a good deal better eight hours' work for you than if he is working ten, and I tell you my friends, if you go up here among these men and put the question to them

in that shop and ask them if they prefer to work eight hours a day and get eight hours' pay or work ten hours a day and get ten hours' pay, the laboring man will say to you right straight, "I prefer to have my choice about this thing; I prefer to do as I please about it." That is what the laboring man will say to you, Mr. President, and this very effort in behalf of the laboring man is simply to his disadvantage.

Mr. BUTTON. Mr. President, I have been a working man. I have worked eight hours and I have worked more. My experience is altogether different from the man that has just spoken. I belong to labor unions. I never belonged to one yet that did not want eight hours for a day's work, and any man that hires labor and will keep watch of his labor will find out that he will get better work for his money at eight hours than he will at ten.

Mr. JAMES. I think that is so.

Mr. BUTTON. And he will find another thing that is different from what the gentleman has just said. He will be paid for ten hours' work although he only works eight. And I am in favor of the section and am going to vote for it. I have lived in New York state where they have the eight hour law, and never saw a riot over eight hours a day work. There may be riots over ten. We have never had a strike yet because the employer wanted to cut it down to eight hours. There is more where they are trying to make it ten.

Mr. RYAN. Mr. President, I certainly want to add my testimony in favor of the eight hour a day system. It has been my experience that men will do just as much work if not more in eight hours than they will in ten, and I do not pretend to ask men to work longer than eight hours. When they work eight hours they have done more than their share of the world's work.

Mr. KEARNS. Mr. President, in regard to my friend, Mr. James—according to the statement of himself and

many more on the floor here, they are the finest body of working men I was ever in in my life. They all tell of their qualifications as working men. Now, I judge from the standpoint of himself, he could always satisfy himself with eight hours a day. I think if I should tell you my good qualities as a working man you would laugh the same as you did at what he says. I was always a working man until I came here and turned out to be a politician. I was always a working man, and I maintain I can do as much in eight hours as I want to. He talks about his men playing when he works them ten hours; I believe they would, because he could not stay and watch them ten hours. That is too long for a man to sleep, and I hope this section will be put in.

Mr. VAN HORNE. Mr. President, it seems to me this section only applies to public works, and the real argument in favor of the section proposed is that it gives a chance for the public to employ more of the citizens than it would on the longer hours. I believe it is universal with the laboring men that on public works eight hours constitutes a day's work, and I shall vote for the provision.

Mr. CORAY. Mr. President, I suggest the quickest way for the members to get themselves on record on this question—that seems to be all they want to do—is to have the roll called on this section and let them vote aye or no.

The roll being called on the adoption of the section offered by Mr. Kearns, the result was as follows:

AYES—79.

Adams	Larsen, L.
Allen	Larsen, C. P.
Anderson	Lemmon
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	McFarland

Cannon	Morris
Chidester	Moritz
Christiansen	Murdock, Beaver
Clark	Murdock, Wasatch
Coray	Murdock, Summit
Corfman	Nebeker
Crane	Page
Creer	Partridge
Cushing	Peters
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Roberts
Engberg	Robertson
Evans, Weber	Robinson, Kane
Evans, Utah	Robison, Wayne
Francis	Ryan
Gibbs	Shurtliff
Goodwin	Squires
Green	Stover
Hart	Strevell
Haynes	Symons
Halliday	Thatcher
Heybourne	Thompson
Howard	Thoreson
Hyde	Thurman
Ivins	Van Horne
Jolley	Varian
Kiesel	Wells
Kearns	Williams.
Lambert	

NOES—11.

Barnes	Lowe, Wm.
Cunningham	Maughan
Farr	Preston
Hammond	Sharp
Hughes	Snow.
James	

ABSENT—16.

Hill	Miller
Johnson	Raleigh
Keith	Richards
Kerr	Ricks
Kimball, Salt Lake	Spencer
Kimball, Weber	Thorne
Lewis	Warrum
Lund	Whitney.

Amendment adopted.

Mr. SQUIRES. Mr. President, I desire to offer a new section as follows:

Section 12. The Legislature shall provide for the abolishment of the contract system as applied to public works, and all such works shall be done under the supervision of the State or the political subdivision thereof that is having the work performed.

I understand that this matter was presented by the working men's protective labor union of Salt Lake to the labor committee, but has not been by them reported. They reported a different article upon that subject and the Convention has struck it out.

Mr. EICHNOR. Mr. President, Mr. Squires referred to that idea or that section that had been proposed to the committee. It was not proposed to the committee, but the committee was loaded down with a number of propositions and we expected or anticipated a great deal of trouble with the article which we had presented and we were not mistaken in our anticipations. I favor the original section.

The question being taken on the section offered by Mr. Squires, the Convention divided and by a vote of 27 ayes to 38 noes, the section was rejected.

Mr. GOODWIN. Mr. President, I offer the following amendment to section 5, to take the place of subdivision 2, line 5:

The employment of youths under eighteen years of age in occupations dangerous to limb and life.

Mr. VARIAN. Mr. President, as I read that that would prevent the employment, if it is operative, of young men under that age in mines. It seems to me that it is in line with this principle, if it is a principle, which I have always thought was barbarous, preventing boys from making a living until they had reached an age when they could be admitted into the association of men. I may be in error about that, but I do not believe in that sort of a principle. I do not care whether it is fathered by the working men's organizations or not. I think that a boy of fifteen or sixteen or seventeen, if his circum-

stances are such that it is necessary for him to work, if he has others dependent upon him, requiring his labor, ought to be permitted to work and if he cannot get it in any other way except to take the risks in some of the hazardous employments of the country, I see no reason why he should be debarred from taking that risk.

Mr. GOODWIN. Mr. President, I had no such object in view. The idea was that boys under the age of eighteen as a rule have not judgment matured enough to handle machinery whereby the lives of other people are put in danger. As an illustration, the putting of young boys on street cars in this city. I had no thought of shutting any boy out in the world, but perhaps there is a feature in that that I ought to have given more consideration to. I was thinking of the owners of dangerous machinery employing boys where the public or some portion of the public are put in danger. I do not know, but the objection raised is good.

Mr. MALONEY. Why not say fourteen years of age instead of eighteen?

Mr. GOODWIN. Well, that does not weigh, because I do not think any one would so employ a boy under fourteen years of age.

Mr. CUNNINGHAM. Mr. President, would not this prevent a boy from running a mowing machine or working around a threshing machine, and all such things as that?

Mr. GOODWIN. No; I do not think so. It might prevent a boy riding a mustang.

Mr. IVINS. Mr. President, I employ a large number of boys down on my ranch, and the best broncho riders I have are young fellows, and I should dislike to be deprived of their services, and they would very much dislike being deprived of the opportunity of making thirty dollars a month.

Mr. SQUIRES. Mr. President, it would also rule boys out of running elevators in hotels and business blocks.

and probably knock them off of their bicycle.

Mr. GOODWIN. Under the remarks of the gentlemen I am satisfied there will be enough boys killed. I withdraw the amendment.

Mr. CREER. Mr. President, I move the article do now pass.

The PRESIDENT. There is a motion of Mr. Roberts to strike out the whole article that is properly before the house.

Mr. STREVELL. Mr. President, I have an amendment I wish to offer to take the place of section 9, that was stricken out yesterday. I believe that that was an important matter and I think that a great many members of the Convention think so, but they voted against it on the ground of expense.

The same was read as follows:

Section 7. The secretary of state shall collect statistics and information on the subject of emigration, agriculture, and labor, its relation to capital, earnings of labor, men and women, and means of promoting their material, social, intellectual, and moral prosperity, and other statistics of general information.

Mr. STREVELL. I desire to say just one word on that in this regard, and that is, I believe that that work which is important to be done would be done in the office of the secretary of the state without creating a bureau.

Mr. ROBERTS. I would like to ask the gentleman if he expects the secretary of state to undertake that on fifteen hundred dollars a year.

Mr. STREVELL. I was in favor of giving the secretary about twenty-five hundred dollars. He will have a chief clerk.

Mr. ROBERTS. The Constitution does not do it.

The amendment of Mr. Strevell was rejected.

The PRESIDENT. The question now recurs on the motion of Mr. Roberts to strike out the entire article.

Mr. VARIAN. Mr. President, I make a point of order on that. This article is

on its third reading—its final passage, a motion to strike out simply accomplishes what would be accomplished by a negative vote on the article. If the motion to strike out shall not prevail, then we would have to go on and take the same vote in a different form over again. The only question now before the house is, unless there is some amendment to be offered to the several sections, the calling of the roll upon the third reading and final passage.

The PRESIDENT. The chair thinks the point of order is well taken.

Mr. SQUIRES. Mr. President, I move that after the word labor the following words be re-inserted:

It shall be the duty of such board to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employe.

Mr. STREVELL. Mr. President, I feel like opposing that motion for this reason, my idea of striking of it out yesterday, after a part of it was stricken out, was that I did not care to have a part of the duties of the board left. I wanted to have the duties prescribed here or leave it entirely to the Legislature.

Mr. VARIAN. Mr. President, possibly the gentleman is under a misapprehension of the reason and effect of the motion to strike out. If he will notice, commencing on line 7, he will see that the provision was that the board is required to hear and determine controversies which may be submitted by either of the parties. As that provision stood, the employer could compel a submission of the controversy. And if it should be constitutional in the full sense—if this Convention has power to enact that (which I deny), it would not have been a board of arbitration at all. It would have been simply a board of control which could be put in motion by either party. The very name of arbitration would be inconsistent with such a board as that.

Mr. HART. Mr. President, I am op-

posed to that motion to insert those words, for the reason that it undertakes to define what the duties of this board shall be. Now, I am opposed to attempting at this state of the development of labor and capital to determine just how this matter may be. I am afraid the construction would be that the Constitution, having attempted to define the duties, that the Legislature could not add other provisions. I am afraid that the construction would be that you could not require compulsory arbitration, and we may, later in the development of this question, see that that is the wise thing to do, and the only way to effectually do anything in conciliating matters between capital and labor.

Mr. SQUIRES. May I ask the gentleman a question? Does he have an idea that such a thing as compulsory arbitration can ever be obtained?

Mr. HART. Well, that matter is in a state of uncertainty yet. I do not know but what it may. As it now stands, if both parties have to consent to the matter—if one refuses, why the whole thing is useless. It may be that that will be the only solution of the question between capital and labor.

Mr. SQUIRES. It would then have to be in the courts, not before an arbitration board.

Mr. HART. Well, in the court and then an arbitration board having certain powers.

The motion of Mr. Squires was rejected.

Mr. VARIAN. Mr. President, I move the secretary re-number the article and transpose sections 10 and 11 so that 10 will come last.

The motion was agreed to.

The roll being called on the adoption of the article on labor, the result was as follows:

AYES—78.

Adams	Kearns
Allen	Kerr
Anderson	Kimball, Salt Lake

Bowdle	Lambert
Boyer	Larsen, L.
Brandley	Larsen, C. P.
Button	Lemmon
Buys	Lowe, Wm.
Call	Lowe, Peter
Cannon	Low, Cache
Chidester	Maeser
Christiansen	Maloney
Coray	Maughan
Corfman	McFarland
Crane	Morris
Creer	Moritz
Driver	Murdock, Beaver
Eichnor	Murdock, Wasatch
Eldredge	Murdock, Summit
Emery	Page
Engberg	Partridge
Evans, Weber	Peters
Evans, Utah	Peterson, Grand
Farr	Peterson, Sanpete
Francis	Robinson, Kane
Gibbs	Robison, Wayne
Goodwin	Ryan
Green	Shurtliff
Hammond	Squires
Hart	Stover
Haynes	Strevell
Halliday	Symons
Howard	Thatcher
Hughes	Thompson
Hyde	Thoreson
Ivins	Van Horne
James	Varian
Jolley	Wells
Kiesel	Williams.

NOES—13.

Barnes	Ricks
Cunningham	Roberts
Heybourne	Robertson
Mackintosh	Sharp
Nebeker	Snow
Pierce	Thurman.
Preston	

ABSENT—15.

Clark	Miller
Cushing	Raleigh
Hill	Richards
Johnson	Spencer
Keith	Thorne

Kimball, Weber Warrum
Lewis Whitney.
Lund

Mr. HEYBOURNE. Mr. President, I desire to state that the article is so mutilated that I can hardly recognize its originality and I shall have to vote no.

The PRESIDENT. The article on labor has been adopted.

The committee on rules presented the following report:

Committee Room.

MR. PRESIDENT:

Your committee on rules herewith report resolutions 74 A and 75 B, with the recommendation that rule eleven be amended by adding after the word "Convention," in the fourth line of the rule, the following:

"And no member shall speak longer than fifteen minutes on any one question;" and that rule twenty be amended by adding after the word "another," in line 8 of the rule, the following:

"Provided, the time of any member shall not be extended more than fifteen minutes."

VARIAN,

Acting Chairman.

Mr. EVANS (Utah). Mr. President, I move that the rules be suspended and that we adopt this now.

The motion was agreed to.

The Convention then proceeded to the third reading of the article entitled revenue and taxation.

Sections 1 and 2 were read.

Mr. PRESTON. Mr. President, the word "mixed" was stricken out of the 8th line and the word "and" inserted between the words real and personal.

Mr. BOYER. Mr. President, I move to amend section 2, in line 17, by striking out the words, "if any there be."

The amendment was rejected.

Section 3 was read.

Mr. CANNON. Mr. President and gentlemen of the Convention, I move to re-insert the words stricken out the other day, in line 12, "municipal corporations." That would conform to the idea expressed and agreed to the other day.

The amendment was agreed to.

Mr. ROBINSON (Kane). Mr. President, I move as an amendment, to strike out the words "his, her, or its," in line 8 of the section, and insert the word "their." I think this is somewhat cumbersome.

Mr. CANNON. That would be ungrammatical and it would be a matter for the committee on compilation and arrangement.

The PRESIDENT. There is no second to it.

Section 4 was read.

Mr. BUYS. I would like to ask the chairman what is the meaning of the language, "and all machinery used in mining and all property and surface improvements upon or appurtenant to mines and mining claims, which have a value separate and independent of such mines and mining claims." I want to know whether the intention was to exempt all mining machinery and improvements from taxation—whether that was the intent of it and whether it would do so.

Mr. CANNON. I would state that the intent was to tax mining machinery, but there are certain improvements I hold of no value, except for the mine in which they exist, such as a tunnel or a shaft, or something of that character, and of course such improvements could not be taxed. It provides that they shall be improvements having a value separate and independent of such mines or mining claims.

Sections 6, 7 and 8 were read.

Mr. CORAY. I would like to ask the chairman of the committee how much property is there that has not been taxed heretofore—what is the estimated value of it—mines and mine improvements?

Mr. CANNON. It is almost impossible to ascertain that. We could not arrive at an accurate estimate, but it would probably reach in the neighborhood of from two to four million dollars.

Sections 9, 10 and 11 were read.

Mr. VAN HORNE. I would like to ask the chairman of the committee whether the term "personal property owned or used" is intended to cover temporary use such as special cars that are forwarded for the purpose of one shipment and would be used by a corporation?

Mr. CANNON. Answering the gentleman, I would suppose that this would not apply to property of that kind, but cars that are used continuously even if they belong to corporations in the east, the design would be to tax them, but that is not the only class of property. Money might be used by corporations which is borrowed—that is permanently used.

Section 12 was read.

Mr. ELDREDGE. Mr. President, I move to strike out that section. It is pure legislative matter.

Mr. CANNON. Mr. President, I trust this motion will not prevail. It was argued at length yesterday. I do not want to take up the time of the Convention. I think this well worth the consideration of the Convention and it will save to the State something like three thousand dollars a year and unless it proves to be bad, I think it should remain. It can easily be changed by the Legislature if necessary.

Mr. ELDREDGE. It simply provides until the Legislature shall otherwise provide, so that the entire matter is left in the hands of the Legislature. Therefore, it might just as well be stricken out.

The motion was rejected.

Mr. EVANS (Weber). Mr. President, I desire to offer an additional section, to be designated section 14, as follows:

"Section 14. Taxes shall be levied and collected for public purposes only."

Mr. BUTTON. Mr. President, I move to lay it on the table.

Mr. EVANS (Weber). I do not want to discuss it all. I simply want to vote upon it.

Mr. VARIAN. That is simply declaring a general principle, is it not?

Mr. HART. Mr. President, the question is, if you lay it on the table whether it would not take the article with it, under the rule. I think if there is any controversy on that point, we had better vote directly on the adoption or rejection of the proposition.

Mr. EICHNOR. That is what Mr. Evans wants.

Mr. EVANS (Weber). No. I do not want to do that. It would do it, however. Gentlemen have no right to impugn my motives about that. I simply want to declare that I do not want taxes levied or collected except for public purposes.

Mr. VARIAN. Can taxes be levied for any other than public purposes now?

Mr. EVANS (Weber). I think not, but it is expressed in so many of the constitutions and is left out of this one, and I think it ought to be expressed in this. If the vote to table carried, of course the whole article will go with it. Mr. Eichnor is mistaken about me, because I do not want to carry the article with it.

Mr. EICHNOR. I say you want the vote on the proposition direct.

Mr. EVANS (Weber). That is all. I do not want to discuss it at all.

The motion of Mr. Button was withdrawn.

Mr. EVANS (Weber). I now move the adoption of the section which I proposed and to designate it section 14, and ask that the ayes and noes be called.

Mr. VARIAN. Mr. President, as I understand it, this is simply a declaration of what the law is anyhow. I do not know any other construction to be put upon it—that taxes must be levied for public purposes. I see no objection to putting it in the Constitution, but on the other hand, I see no reason for putting it there.

Mr. CANNON. I would like to ask the gentleman who introduced this a question. Is the purpose, Mr. Evans, to prevent payment of bounties?

Mr. EVANS (Weber). That question

of bounties has rung in my ears ever since I have done anything in this Convention.

Mr. CANNON. I ask the question.

Mr. EVANS (Weber). I say it is for the purpose of preventing the levy and collection of taxes for any purpose except for a purely public purpose.

Mr. CANNON. Would it affect the payment of bounties?

Mr. EVANS (Weber). If it does affect the payment of bounties, I hope it will carry.

The roll being called on the adoption of the section proposed by Mr. Evans, of Weber, the result was as follows:

AYES—36.

Barnes	Lemmon
Boyer	Lowe, Wm.
Buys	Low, Cache
Call	Maeser
Corfman	Maloney
Creer	Murdock, Wasatch
Cunningham	Nebeker
Engberg	Partridge
Evans, Weber	Peters
Evans, Utah	Preston
Francis	Roberts
Hammond	Robertson
Hart	Robison, Wayne
Halliday	Sharp
Howard	Snow
Ivins	Thatcher
Kiesel	Thoreson
Kimball, Salt Lake	Thurman,

NOES—45.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Bowdle	Lowe, Peter
Button	Maughan
Cannon	McFarland
Chidester	Morris
Christianson	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Eichnor	Page
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Farr	Ricks
Gibbs	Robinson, Kane

Goodwin
Green
Heybourne
Hill
Hyde
James
Jolley
Kearns
Lambert

Ryan
Shurtliff
Squires
Stover
Strevell
Thompson
Van Horne
Varian.

ABSENT—25.

Adams	Mackintosh
Brandley	Miller
Clark	Pierce
Cushing	Raleigh
Driver	Richards
Haynes	Spencer
Hughes	Symons
Johnson	Thorne
Keith	Warrum
Kerr	Wells
Kimball, Weber	Whitney
Lewis	Williams.
Lund	

Mr. JOLLEY. Mr. President, I have a substitute here for section 5. I would like it read and would like the floor for a few minutes to speak upon it.

The same was read as follows:

All mortgages secured on either real or personal property shall be taxed; a reduction equal to the amount of such mortgage shall be made in the assessed value of the property covered thereby.

Mr. CREER. I arise to a point of order. That is exactly in substance and in language almost what was stricken out.

The point of order was sustained.

Mr. EVANS (Weber). I would like to make this suggestion in respect to this point of order, and that is this, the motion is equivalent to the section which was stricken out and it reaches exactly the same thing and it is simply a question now—

The PRESIDENT. That was in committee of the whole. This is in the Convention. I think the thing is perfectly in order.

Mr. JOLLEY. Mr. President, while I realize that it is somewhat legislative

matter, yet I realize by placing that article in the Constitution, it would be a material help to thousands of poor people that are now in Utah Territory. We have been living in days of prosperity in the past for many years until the last two years. We have found ourselves—thousands that have our homes mortgaged, personal property mortgaged, and there has been a shrinkage in property and valuation of at least fifty per cent., until to-day people are almost unable to find the wherewith to pay their taxes, and while the money that they have borrowed—the men that own it are exempt from helping to bear that burden.

This is simply equalizing that burden, taking a portion of it from the poor man that has got to-day possibly fifty or seventy-five per cent. of all that he owns mortgaged, and is paying taxes on all that he owns, and the money that he borrowed too, and yet within the last two years has lost fifty per cent. of all that he does own, and they are laboring and struggling, but it is life and death financially, and if we are here, as we have been to-day, in the interest of the laborer and the poor, I think that we could not do them a greater favor than to have that inserted in the Constitution. It would be a boon which would be a great help. It would be an encouragement to them that to-day are unable to keep body and soul together. This is all that I have to say. I trust it will receive consideration here before you vote it down.

Mr. IVINS. Mr. President, I do not wish to occupy a moment's time debating this question, but to call attention to the fact that it was precisely the same thing that was voted down yesterday by a vote of two to one. It amounts to just the same thing, and I hope that it will be voted down to-day. Now, I want to state while I am on my feet, if this question is going to be opened up for discussion again, there is

a good deal to be said and we have a provision that we are ready to put in and substitute for that that will make mortgages taxable, as they are under the California system, but we do not want to enter into this debate. We are willing to leave it for the Legislature to determine, just as we left it yesterday. It is a fair proposition.

The substitute of Mr. Jolley was rejected.

Mr. MORRIS. Mr. President, before calling the roll I want to call attention of the gentlemen to the fact that there is something wanted in section 11. We have outside of the general taxation of this city five or six special taxations. There is the light tax, there is the water tax, there is the sewer tax, there is the sidewalk tax, there is the street tax, and there is no end to the special taxes that we have outside of the general taxes until the people are eaten up with taxes and no end to it. I think there is something wanted in that section.

The PRESIDENT. There is no question before the house.

The roll being called on the adoption of the article entitled revenue and taxation, the result was as follows:

AYES—77.

Allen	Lambert
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lowe, Wm.
Button	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Coray	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Eichnor	Murdock, Summit
Eldredge	Page
Emery	Partridge
Engberg	Peters

Evans, Weber	Peterson, Grand
Evans, Utah	Peterson, Sanpete
Farr	Preston
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Halliday	Shurtliff
Heybourne	Snow
Hill	Squires
Howard	Stover
Hyde	Thatcher
Ivins	Thompson
James	Thoreson
Jolley	Thurman
Kiesel	Van Horne
Kearns	Varian.
Kimball, Salt Lake	

NOES—3.

Corfman	Sharp.
Nebeker	

ABSENT—26.

Adams	Mackintosh
Brandley	Miller
Clark	Pierce
Cushing	Raleigh
Driver	Richards
Haynes	Spencer
Hughes	Strevell
Johnson	Symons
Keith	Thorne
Kerr	Warrum
Kimball, Weber	Wells
Lewis	Whitney
Lund	Williams.

The President declared the article adopted, and referred to the committee on compilation and arrangement.

During the roll call the following explanations were made:

Mr. JOLLEY. I will vote aye as far it goes, but it does not go far enough to suit me.

Mr. NEBEKER. Mr. President, in voting on this proposition, I want to explain my position. I believe in section 2. While the proposition is aimed to be left to the Legislature to tax

mortgages I believe that the Legislature is silent upon that proposition that mortgages can be taxed under this article and I am not in favor of taxing mortgages, unless we go to the California provision, therefore I vote no.

On motion the Convention then, at 5:24 o'clock p. m., adjourned.

FORTY-SEVENTH DAY.

FRIDAY, April 19, 1895.

Convention was called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Rev. Geo. W. Rich, of Park City.

Journal of the forty-sixth day's session was read and approved.

Mr. Coray was excused.

Mr. Chidester moved the rules be suspended and all petitions relating to elections and right of suffrage be filed without being read.

Carried.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to a vote of the people:

File No. 364, signed by C. A. Glazier and 9 others from Provo, by Corfman, of Utah.

File No. 365, signed by W. H. Dickson and 171 others from Salt Lake, by Van Horne, of Salt Lake.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 366, signed by Elizabeth Carlisle and 37 others from Mill Creek, by Cannon, of Salt Lake.

File No. 367, signed by Hugh McKee and 174 others from Huntington, by Howard, of Emery.

File No. 368, signed by N. J. Neilsen and 32 others from Hyrum, by Thoreson, of Cache.

Mr. Hyde, of Juab, presented the following petitions from Nephi, asking

that the question of prohibition be submitted as a separate article to a vote of the people:

File No. 369, signed by Thos. H. Ingram and 54 others; File No. 370, signed by Chas. Morris and 46 others, and File No. 371, signed by J. W. Paxman and 15 others.

Referred to committee on schedule, future amendments and miscellaneous.

Mr. RICKS. Mr. President, I move that all petitions on the woman's suffrage question hereafter presented be presented to the clerk without being read to the Convention.

Mr. CHIDESTER. And in order to save time in this matter, I move that the rules be suspended and that all petitions of that nature be submitted to the clerk and placed on file.

Mr. CANNON. I would like to ask the purpose of the motion—if it is the intention that it go on record?

Mr. CHIDESTER. Not necessarily.

Mr. VAN HORNE. Mr. President, I hope that will not be done. We put in our bill of rights a declaration that the right of petition of the people should not be taken away from them. The right of petition means the right of presenting it to the body which has to consider it, and I think it will not be courteous to our constituents without at least reading the title of the petitions.

Mr. CHIDESTER. I did not mean any discourtesy, but it was simply to save time. There are a number of petitions coming in and it will encumber the records.

Mr. BOWDLE. Mr. President, if I understand the motion, it is simply the reading by the clerk of the petitions. They will go into the minutes just the same and in fact be treated and considered as such, is that it, Mr. Chidester?

Mr. CHIDESTER. Yes, sir.

Mr. BOWDLE. I am in favor of that motion.

The motion was agreed to.

Reports of standing committees.

Committees on public lands and education reported as follows:

Convention Hall,
Salt Lake, April 18, 1895.

PRESIDENT CONVENTION:

Your committee on public lands and education and school lands, to whom was referred the article on "public lands," have decided that each committee report on the respective duties assigned them.

Respectfully,

FRANK PIERCE,
Chairman committee on education and school lands.

L. B. ADAMS,
Chairman committee on public lands.

Report adopted.

Committee on schedule, future amendments and miscellaneous reported as follows:

Committee Rooms,
April 19, 1895.

MR. PRESIDENT:

I submit herewith report of your committee on schedule, future amendments; also minority report on the question of "prohibition;" also return herewith the various files referred to us and recommend that they be filed.

RICKS,
Chairman.

Constitutional Convention Hall.

MR. PRESIDENT:

Your committee on schedule, future amendments and miscellaneous have considered the proposition to submit a separate article to the vote of the people, prohibiting the manufacture and sale of intoxicating liquors as a beverage; and respectfully beg leave to report that in the opinion of your committee the question involves the destruction of so much property, injury to established business enterprise, and the disturbance of vested rights in property, that it is a question which ought not to be hastily dealt with as it must necessarily be if considered by this Convention. Moreover, we respectfully represent that the control of the manufacture and sale of intoxicating liquors by means of governmental prohibition is but an experiment, and if tried at all in the new State ought to be by legislative enactment, and not by constitutional provision; and we therefore recommend

that the subject be left to the Legislature.

B. H. ROBERTS,
L. B. ADAMS,
J. J. WILLIAMS,
S. FRANCIS,
KARL G. MAESER,
SAMUEL H. HILL,
JAMES F. GREEN,
JOEL RICKS.

Committee Room,
Joint County and City Building,
April 19, 1895.

TO THE PRESIDENT AND CONSTITUTIONAL
CONVENTION:

The minority of your committee on schedule, future amendments and miscellaneous deem it their duty to recognize the many petitions presented praying that prohibition as a separate article be submitted to the voters of Utah for their acceptance or rejection. Therefore, we beg leave to submit the following article on prohibition, to be voted on as a separate measure.

GEO. P. MILLER,
J. D. HALLIDAY,
JOS. E. ROBINSON.

Mr. JAMES. Mr. President, the committee on corporations other than municipal are ready to report. They have not submitted with their report any written statement for the reason that they have not had time.

The committee is anxious to get this report before the Convention that it may be printed and go into the committee of the whole.

Mr. EVANS (Weber). Mr. President, I move that the rules be suspended and that the minority report on the question of prohibition be rejected and the majority report be adopted.

Mr. THURMAN. No; let us reach it in the regular order.

Mr. IVINS. Mr. President, I am entirely opposed to this summary manner of disposing of this question or any other of similar importance that may come before this body. I want to ask why, under a suspension of the rules, we should proceed to deal with this question this morning when there are other matters upon the calendar waiting for our attention? It is not proper and right, and I hope that this

question will be left until it comes up in its regular order and then let us make such disposition of it as we may choose.

Mr. VARIAN. Mr. President, I move to lay the motion on the table.

The motion of Mr. Varian was agreed to.

Mr. THURMAN. Mr. President, it has been suggested that the motion just made here carried the whole question to the table; if that was the purpose of it, this Convention did not understand it. I do not believe in a thing being carried by a misunderstanding.

Mr. VARIAN. It was not the purpose of it, but I suggest that it can be taken up at any time.

Mr. THURMAN. Well, it ought to be taken up right now. I do not think this Convention wanted to do that, that they wanted to deal with the petitions of a large portion of Utah in any such way.

Mr. VARIAN. Mr. President, I will say the object was to cut off the discussion, so that we could go on with the business.

Mr. THURMAN. I accept the suggestion. I move now that it be taken from the table.

The motion was agreed to.

Mr. EVANS (Weber). My only purpose in offering my motion was to dispose of this question as the gentlemen say in a somewhat summary manner. We have been here sometime. I believe that the Convention is in a temper now to dispose of it without delay.

Mr. HART. A motion to suspend the rules is undebatable.

The motion of Mr. Evans was rejected.

Mr. FRANCIS. Mr. President, I move that the committee on accounts and expenses be instructed to inquire if it is necessary to longer employ the services of our committee clerks. Also if we need all the other officers at present employed, and report thereon as soon as possible.

The motion was agreed to.

Mr. BARNES. Mr. President, in behalf of that committee, I would ask that a copy of the resolutions be furnished the committee.

Mr. ADAMS. Mr. President, I would move that the article on public lands be reinstated on the calendar in its regular order; it was taken off you will remember some time ago and we would like to have it reinstated.

Mr. CANNON. Mr. President, this is out of order. Motions come later.

The PRESIDENT. This motion will come in a little later.

The Convention then proceeded to the consideration of the article entitled public debt.

Section 1 was read.

Mr. CANNON. Mr. President, I desire to offer the following amendment, in line 6, after the word "indebtedness:" "and when existing indebtedness shall have been paid the debt authorized by this section shall never at any time thereafter exceed two hundred thousand dollars."

Mr. VARIAN. I ask to offer a substitute for the section.

Mr. EVANS (Weber). Mr. President, I move an amendment to the amendment of Mr. Cannon, striking out the words, "two hundred thousand dollars," and inserting "one hundred thousand dollars."

The PRESIDENT. The motion is out of order.

Mr. Varian presented a substitute for the entire section as I understand it.

The substitute offered by Mr. Varian was read as follows:

The State may, to meet casual deficits or failures in revenue and for necessary expenditures for public purposes, including the erection of public buildings and for the payment of all territorial indebtedness, assumed by the State, contract debts, not exceeding in the aggregate at any one time the sum of three hundred thousand dollars, over and above the amount of the territorial indebtedness assumed by the State, and when the said territorial indebted-

ness shall have been paid, the State shall never contract indebtedness for the purposes herein specified in excess of the sum of three hundred thousand dollars; and all moneys arising from loans herein authorized shall be applied to the purposes and none other for which they were obtained.

Mr. VARIAN. Now, Mr. President, my purpose in rewriting the entire section was to make perfectly clear what I conceived to be the intention of the Convention. While the amendment offered by the chairman of the committee this morning eliminates some of the obscurity that was embraced in that section, it seems to me it ought to be more specifically and clearly stated; that is to say the intention of this section, as I understand it, was to authorize the contracting of an indebtedness to meet casual deficits or failures in revenue and also such other burdens growing out of the necessity for public institutions or buildings. I thought, and some differ and some agree with me, that "or for expenses," in the second line, was not sufficiently explicit, that that might be interpreted to refer to the ordinary and current expenses of the State, and inasmuch as it is susceptible of this dual interpretation, it was deemed expedient to present the matter to the Convention more explicitly. The substitute offered provides for expenditures for public purposes, including the erection of public buildings, and it also includes the other proposition which is embraced in Mr. Cannon's motion, that when the territorial indebtedness, which is specifically mentioned as the indebtedness comprehended by this section, shall have been paid or any part shall have been paid, that the limit for these other purposes shall be fixed at three hundred thousand dollars. I do not know whether that would meet with the approbation of the members of the Convention or not, but it is the amount usually fixed in clauses of this kind and certainly would not be considered more than sufficient

if it were necessary to erect public buildings. At the suggestion of gentlemen here I would ask leave to make that two hundred thousand dollars instead of three hundred thousand dollars.

Mr. HART. Mr. President, it seems to me that the amendment by the gentleman from Salt Lake, Mr. Cannon, hardly covers the ground that he wishes. It seems to me that the matter is left uncertain as to whether additional indebtedness could be contracted by the State in excess of the present indebtedness, or whether that would apply only after the present indebtedness was fully paid. It seems to me that it is not as clear as the proposition offered by the gentleman from Salt Lake, Mr. Varian, which clearly limits the indebtedness of the State to a certain amount. It seems to me that the amendment of the gentleman from Salt Lake places no limit upon the matter until after the present indebtedness is paid.

Mr. CANNON. Mr. President, I call the gentleman's attention to the fact that the section as passed in the committee of the whole would limit the indebtedness, including the existing indebtedness, to nine hundred thousand dollars. The amendment offered by myself provides that after the existing indebtedness shall have been paid that thereafter the indebtedness provided for by this section shall never exceed at any time two hundred thousand dollars. I think it is clear on that point. I am opposed to the substitute offered for the reason that it takes up some matters dealt with in other sections that I think are covered better than they would be by this. I think that the amendment proposed, making it two hundred thousand dollars after existing indebtedness is paid—that the article would be better as passed in committee of the whole.

Mr. HART. Mr. President, I call the gentleman's attention to the words

"after the debt has been paid." What would be the rule before that debt has been paid?

Mr. EICHNOR. Nine hundred thousand dollars.

Mr. HART. Suppose some part of that should not be paid at any time?

Mr. VARIAN. Will the chairman of the committee point out what matter in other sections is embraced?

Mr. CANNON. In section 2 there is a provision that the money arising from the contracting of such debts shall be applied to the purpose for which it was raised and for no other purpose whatever.

Mr. VARIAN. I call attention to the fact that that is copied from the original article. That objection is certainly not good.

Mr. CANNON. Well, I did not want to confuse the two sections.

Mr. ROBERTS. Mr. President, I cannot say that I object to the substitute offered by the gentleman from Salt Lake, especially as to the principle of it, but I am of the opinion from my recollection of its reading that it would be simpler to amend this section as reported from the committee and cover the same points, and if I vote against it at all, it would be upon that ground, that I think that this section as we have it from the committee could be amended and make us a better section than this substitute. As for instance, I would so amend and intended to offer the amendment until barred out by the number that are already before the house, so that it would read, "the State may, to meet casual deficits or failures in revenue, or for expenses, not provided for, contract debts and such debts direct and contingent in the aggregate shall not at any time exceed one hundred thousand dollars, not including present indebtedness, and the moneys arising from the loans creating such debts," etc., shall be applied to the purposes for which they were obtained. Then I would say that the committee on sched-

ule, future amendments and miscellaneous will necessarily bring in a section in their report making provision for the State to assume the territorial indebtedness, and thus you would avoid in this section the provision that is made for the State taking the indebtedness of the Territory, and leave this section unburdened by reference to the territorial indebtedness at all, and would prefer an amendment of this kind to the substitute that is offered.

Mr. PRESTON. Mr. President, it says, "when the present indebtedness is paid." I would like to have some information from the chairman of the committee as to when that may be. Can the chairman of the committee on public debt tell when that will be done?

Mr. CANNON. I am unable to foresee exactly when it will be paid. I can find out when it will mature.

Mr. SQUIRES. Are not the bonds fifteen year bonds?

Mr. CANNON. They are twenty year bonds and the time has partly elapsed, but the object of the amendment is that when the existing indebtedness shall have been paid that the debt authorized by this section shall never thereafter at any one time exceed two hundred thousand dollars.

Mr. ROBERTS. Does it not follow then that before that indebtedness could be settled that under your amendment the State could exceed this limit that we are trying to fix upon?

Mr. PRESTON. That is the point I was trying to make.

Mr. CANNON. I think not, Mr. Preston. It could not exceed the nine hundred thousand dollars. It limits it to less than two hundred thousand dollars in excess of the present indebtedness.

Mr. VARIAN. I would like to ask the chairman, supposing when this Constitution goes into effect the indebtedness of the Territory is nine hundred thousand dollars, as it is liable to be, what would be the effect then of this article as amended by you?

Mr. CANNON. I would understand it myself, that then we could not increase the indebtedness for the purpose named in this section until we had paid the indebtedness which exists, and that therefore they could contract indebtedness not at any time to exceed two hundred thousand dollars.

Mr. ROBERTS. Suppose that the State should pay off, we will say, five hundred thousand dollars of its debt, could it not then immediately go on under your amendment contracting several hundred thousand dollars indebtedness again?

Mr. CANNON. The State could go not to exceed the limit provided until the indebtedness was paid. I do not think they could renew that indebtedness, except in the way of taking it up.

The amendment offered by Mr. Cannon was rejected.

The substitute offered by Mr. Varian was adopted.

Mr. EVANS (Weber). What is the limit now in the substitute?

Mr. VARIAN. Two hundred thousand dollars.

Mr. EVANS (Weber). Mr. President, I move now that that be amended by inserting the words "one hundred thousand dollars," instead of two hundred thousand dollars.

The amendment was rejected.

Sections 2 and 3 were read.

Mr. EVANS (Weber). I want to inquire of Mr. Cannon what these objects are in section 3—what is intended by that?

Mr. CANNON. I would state that the object of the committee as I understood it, was that in case of any public work of any kind being desired to be undertaken and the people desiring to perform that by incurring indebtedness, they should have the power to vote upon it.

Mr. EVANS (Weber). Now, I understand this section just as the chairman does exactly, and since Mr. Varian's substitute has been adopted that pro-

vides for public buildings, I therefore move that section 3 be stricken out. I submit that that substitute fully covers section 3. Section 3 is a useless thing and it ought to be stricken out.

Mr. SQUIRES. Mr. President, the only point that would make me hesitate about striking this other section out is that in this section as provided for is required to first be voted by the people, and in section 1 there is no limit of that sort. It leaves the entire matter of indebtedness to the Legislature. Whatever they should provide will have to go up to the limit of the indebtedness of the State, without the people having a word to say about it. This section 3, it seems to me, ought to be amended in some way so that this extra indebtedness should be voted by the people, as provided in section 3, and not leave too much to the Legislature.

Mr. VARIAN. Mr. President, the object of creating a public debt as declared in section 1, would be restricted and practically of little importance, if it were to be determined as suggested by Mr. Squires, by a popular vote. You will observe that the debt is limited to certain specified purposes. They are necessary purposes. First, to meet the deficits in the current revenues of the year; second, to supply the necessary public buildings for public purposes. Now, for what other purposes can the people of this State be called upon to create a public debt? Section 2 provides in the improbable contingency of invasion, insurrection, war, etc., for this matter. Section 1 provides for taking care of the State as she shall move along from year to year, if it shall be necessary to provide her with the necessary public buildings. Now, what other purpose can be served by providing for still an additional debt for some undefined object or purpose, provided the people shall vote upon it? Of course, if there is a purpose that is not disclosed, let us put it in here, because I fear that an article like that, unexplained,

carrying so much obscurity and uncertainty as to the purposes of it upon its face, when the people come to look at it and vote upon this Constitution, it will have a tendency to alarm them. Of course, I may not have been astute enough to see it. If there is a specific and good purpose, let us put it right in there so that the people can see what is meant by it. I confess I do not understand it.

Mr. ROBERTS. I would ask Mr. Varian if the indebtedness provided for in sections 1 and 2 would not be under the jurisdiction of the Legislature to contract those debts?

Mr. VARIAN. Yes, sir.

Mr. ROBERTS. And that it is not necessary to refer under these provisions to the people at all?

Mr. VARIAN. No, sir; I do not think it is ever held to be a good policy to refer debts of this kind, because before the people would pass upon it the emergency would have passed.

Mr. ROBERTS. Mr. President, I submit that in the event of undertaking a public building, it would be a question that the Legislature in all probability would be elected upon, and it is sufficient limit to the Legislature if we say the purposes for which they will tax the people and for which they will not—not only limit them as to the purposes for which they shall use these taxes or this indebtedness, but also the amount of the indebtedness. I take it, sir, that it is a sufficient limitation upon the Legislature that there is nothing further left for which the State can reasonably go into debt than for the purposes specified in the substitute for section 1 and in section 2, and therefore there is no excuse on earth that I can see for leaving in section 3 in this article, and I shall vote to cast it out.

Mr. CANNON. Mr. President, the substitute offered for section 1 and which has been adopted by the Convention, meets the objection that was made at the time in the committee of the

whole to striking out section 3, the objection which I then made to striking it out. The only question in my mind is whether or not two hundred thousand dollars would be ample for purposes that might be designed under section 3, and yet I would hesitate to make the amount larger than two hundred thousand dollars, because when not applied to those purposes, I think two hundred thousand dollars is more than enough. I would have preferred one hundred thousand dollars for the purpose first stated in section 1 or originally stated in section 1, and a provision as in section 3, but under the circumstances, so far as I am concerned, I believe I shall vote to strike out section 3.

The motion to strike out section 3 was agreed to.

Section 4 was read.

Mr. SNOW. Mr. President, I move to strike out the words in line ten, "those voting thereon," and insert in lieu thereof the words, "such electors." It will be noted that in section 5 the debt that is authorized aggregates fifteen per cent. besides extra indebtedness for sewerage, etc. The qualifications required in section 4 to vote on these propositions are those of a taxpayer. Now, according to section 4 a majority of those voting at this election could vote the tax so that a small minority might be at any time capable, in the absence of all the qualified voters voting, to vote this tax upon the great majority if this section only requires a majority of those voting at the election to vote these taxes. The amendment which I propose limits the assessing of this tax to a majority of the qualified electors. The object of this amendment is to provide that only a majority of the qualified electors—that is, taxpayers, shall be capable at any election to vote the assessments that are authorized in section 5 to prevent a bare minority. I would like to illustrate. Suppose there are one hundred

electors in a school district and the proposition is to assess five per cent. According to this, if there were but fifty who went out to the polls to vote, twenty-six of them would carry the election, and seventy-four of them would be compelled to pay a tax that had been authorized by twenty-six electors. If my amendment carries, it will require fifty-one in such a case to carry the election or assess the tax. The proposition here is that there shall be in addition to being a qualified elector a taxpayer for the next preceding year.

Mr. EICHNOR. Mr. President, I am opposed to the amendment. It is the duty of every citizen to vote. If a man can make his vote—if a man by remaining away from the polls can make himself as effective as by going and voting against it—that is the result of the amendment; why, it is contrary to the institutions of the United States. It is the duty of every citizen to vote and a majority of the votes cast should govern. Why, if that principle were adopted the men could stay at home and it would be just as good as if they were to go and vote; that is certainly wrong in principle.

Mr. BOYER. Mr. President, the very reason that Mr. Eichnor advances as his objection to the amendment of this section, I should offer in favor of the amendment. I certainly hold that for the purpose of an assessment of a tax upon any individual that there should be a majority in any voting district or precinct to determine that tax and that should consist of a majority of the voters of the district, because that in order to take money from one individual for the purpose of an improvement, in the event that he does not desire it, there should at least be a majority of voters requiring that. For instance, you might illustrate a little further on the proposition that Mr. Snow introduces. Supposing that in an election district that there were one hundred voters, proper notice having been

given, and only three voters in the precinct should turn out to cast their ballots for the assessment of a special tax of five per cent—

Mr. EICHNOR. Whose fault would that be?

Mr. BOYER. It would be the fault of no one particularly, only those who expressed a right to cast their vote by staying at home. The two parties out of three voting could assess a tax upon a hundred taxpayers for the purposes of a special improvement. Now, I hold that he that stays at home and does not vote for the assessment of a tax, expresses a determination not to be taxed. This section, as I take it, is for the sole purpose of the privilege of making a special assessment, and it is given to the parties that desire that assessment to express their views and not for a party that votes against it. The party staying at home expresses his views against this assessment. He evidently does do so, by not voting for the assessment. Now, in order to get a legitimate assessment, we must have a majority of the electors in favor of it.

Mr. ROBERTS. Mr. President, it occurs to me to ask why not go to the polls and register a protest against the indebtedness by voting?

Mr. BOYER. In answer to Mr. Roberts, I would say this, if I understood the question. The question is asked, why not go and express your vote at the election as against it? The question is one that requires an affirmative in order to assess the tax, consequently if the person stays at home he expresses by a negative that he does not wish the tax assessed against him. That is the reason, and I hold that it should be necessary for a majority of the electors of the district to say when the tax shall be assessed.

Mr. LAMBERT. Brother Boyer, do you think it right to reward a man for staying away from the polls?

Mr. BOYER. Sometimes I do, yes, sir; now Mr. Lambert, I may be away

from the election district, as many times dozens of men are away from the election district—are off on other business and cannot possibly be at home to vote at school elections or when the special assessment may be made, and I hold that they have no right whatever when they are absent and away to express their wish; they cannot possibly get to the polls and they should have that right from the fact that it requires the affirmative for the assessment of this tax and there should be a majority of the electors in the district required to make that assessment.

Mr. BOWDLE. Would not that same argument pertain to any election?

Mr. BOYER. No, sir; because this is a special election for a special purpose, for a special tax, which assesses every individual at the same rate, and if he chooses upon a general election to stay away and sacrifice his right, it his own business and nobody else's. It is not understood only just so far as the general taxes are concerned.

Mr. GOODWIN. May I ask the gentleman a question? Under the new dispensation could not a man's wife do that for him, if he were away?

Mr. BOYER. She could do just half of it; if he were fortunate enough to have two wives they might be able to do the business. [Laughter.]

Mr. ROBERTS. Mr. President, I shall oppose this amendment, just for one reason. It seems to be a contrivance by which an election may be carried by the people staying away from the polls, and therefore I shall vote against it. I believe in the kind of an election that can only be carried by the people going to the polls and voting.

Mr. BUTTON. Mr. President, I want to offer an amendment, and if this amendment carries, I will vote for the other. I move that every elector shall be fined five dollars if he don't go to the polls and vote.

The PRESIDENT. It is not germane to the subject

Mr. JOLLEY. Mr. President, I think that this is something that we should carefully consider. Now, it has come under my observation in the past where there have been less than two dozen voters that have imposed a heavy tax upon two hundred voters for school improvements, and it was simply because it was in a busy time of the year, and in a farming district, and the people were scattered and busily engaged, and the notices being posted up for ten days were unobserved by the busy workers of the people. And I think myself that they should get the assent of a majority of the people before they assess any tax.

Mr. THORESON. Mr. President, I am opposed to this amendment. We elect public officers for certain purposes, and they present these questions to their constituents—to the people of their district, or the city that they represent, and they ask the people to come up and vote for or against the proposition made, and I think that they should be backed up by their people. They want to ascertain the feelings and by a majority staying away then for different purposes they do not get this information, but by coming up and voting for or against, they tell their servants—these officers, what they expect of them, and they act accordingly.

Mr. CREER. Mr. President, for the same reason expressed by the gentleman who has just spoken from Cache, I am opposed to the amendment. It would have a tendency simply to stultify progress of our school districts, because the people simply would stay away, and there is no other manner to present it. The trustees must do that almost yearly—that something is needed for the improvement of the school property of the district. According to this idea all they would have to do is to stay at home, and it is encouraging a principle that is absolutely wrong, in my opinion.

Mr. PARTRIDGE. Mr. President, I

would not say anything, only I see a disposition to oppose the amendment. The question was asked here by one gentleman, if the speaker who was speaking was in favor of punishing the person—I do not remember now just how it was—but I will reply to that at any rate, by asking him if he would wish to punish a person for staying at home? Now, I understand this matter in this way, that if the trustees of a school district wish a tax, and they call upon the voters of that district to vote that tax, it should be a matter that concerns the voters of that district. It is not a matter that concerns the trustees alone, but it concerns every one that holds property in that district, and I do not think that a few men should have the privilege or the right to get up an election contrary to the wishes of the majority and force them to pay a tax. It is said here that by their staying away they should be forced to go to the polls. I do not think so. I think that they should have a say in it. If they did not want an election they should not be forced to do it—to go to the election, and if there is a majority go there and vote for it, and if there is only a minority that wants it, why let it fail, that is the way I look at it.

Mr. EVANS (Weber). Mr. President, I am in favor of the amendment, because I am opposed to public indebtedness. Gentlemen misunderstand this section. It is not a question of the rate of taxation. It is a question as to whether the people can go in debt by this method. And being opposed to public indebtedness, I shall vote for the amendment.

Mr. ELDREDGE. I would like to ask the chairman of this committee one question. What tax is section 4 intended to apply to? Is it a general tax or does it look to cover anything that that may come up in the form of a special tax?

Mr. CANNON. I should understand

that it would be the taxes which would be collected for the special purpose; that if it were for a school district, it would be the tax collected for school purposes; if a county, it would be the tax collected for a county purpose, etc.

Mr. ELDREDGE. Would we understand that that would apply to a tax levied under the statute or would it be a tax collected?

Mr. CANNON. I would understand it to apply to the circumstances connected with the various cases. For instance, take a school district, the school trustees would know before hand about the amount of tax that would come to them. This section is designed to prohibit them from incurring an indebtedness greater than they may expect a revenue to cover. That is my understanding of it, and anything that they might reasonably expect to collect they would have a right to appropriate or incur indebtedness for.

Mr. SQUIRES. Do you remember, Mr. Cannon, that the recent court decision in regard to the indebtedness of this county excluded the school tax from the amount?

Mr. CANNON. I do not understand the scope of the gentleman's question or what he wants.

Mr. SQUIRES. The purpose of the county court here was to ascertain what the limit of indebtedness should be in order to know how much of these outstanding warrants are illegal, and the court decided that they could not include in the taxes of the year, the school tax of the county, and that made these ninety-five thousand dollars of warrants which were issued illegal.

Mr. EVANS (Weber). How would that affect this?

Mr. SQUIRES. Well, this is the same language as provided in that statute. I wanted to know what he understood by it.

Mr. CANNON. The purpose is, as I understand it from the committee, to limit the indebtedness that may be

created by a county or by any municipal corporation to the amount of revenues that that particular subdivision would receive.

Mr. SQUIRES. Including school tax?

Mr. CANNON. Including school tax.

Mr. HAMMOND. Mr. President, I am in favor of this amendment, but I am like an old broken winded horse with the heaves. I cannot tell all that I think about it, but it affects San Juan and that is enough for me to get on the floor. Our school districts there are small. That is, they cover a good deal of ground, with the centers of population small, while our taxable property, which is cattle and sheep, are roaming over the wilds there and the cattlemen's headquarters and outfits are from forty to fifty miles away. Now, our school districts and voters get together—a half a dozen of them, as they have done, and get up a craze—boom—want a school house, and go on to this higher education, and it has affected very largely the main property taxpayers in that county, because there is no paper published there. The Tribune scarcely ever gets down there and for that reason those cattlemen do not get posted in regard to these little notices stuck up on the blacksmith shop or the co-operative store or the meeting house, and they are in oblivion in regard to it until the tax is assessed upon them.

Mr. BOYER. Mr. President, I want to say one word further if I may be permitted. Now, the principle of this law that we are enacting here is based upon the position that a majority must make the law. The very Convention that is gathered together here that will frame this organic act under which this assessment may be made will require fifty four of the delegates here to pass upon this article to give it place in the Constitution. Now, suppose a number of those men go out and we can only get fifty-three, that part of the organic act would certainly fail. It requires a majority to give us this organic act

under which the special assessment may be made. If they were outside, they could hustle out and collect them in.

Mr. CHIDESTER. Mr. President, I am opposed to the amendment for the reason that it would give those who desire to levy a tax or those who stayed away or were absent from any cause—might perhaps thwart the design of those who wished to levy a tax. Now, some might remove from the district, yet they might have been voters; their names may be on the list and all of that, and it seems to me that it would give a reward to those who were careless and indifferent and stayed away from the polls. It would thwart the real design and wishes of those who would want to levy the taxes.

Mr. IVINS. Mr. President, there seems to be such a decided opposition to this amendment I must say a word. Mr. Hammond has represented a condition that exists in nearly all of the outlying counties of this Territory, and I am certain that unless this amendment is approved that injustice may be done in those outlying counties. I know the ambitions of men to build school houses and make other improvements, and in many instances men who have control of these affairs are not the representative men of the district.

Mr. HAMMOND. They pay no taxes some of them.

Mr. IVINS. They pay no taxes some of them. It is just as Mr. Jolley says, advantage will be taken of those away from home, due notice will not be given, and a small minority would, in many instances, impose very heavy burdens upon the majority. I say whenever the time comes that a majority of the people desire that money shall be expended for special purposes, they will go to the polls and say so.

Mr. CHIDESTER. Is it not a fact that the trustees would have to publish a notice to the taxpayers of this meeting?

Mr. IVINS. They might be required

to publish a notice. It is also a fact that the paper in which they published a notice might not find its way into one-tenth of the houses of the people of that district.

Mr. CHIDESTER. Is not it a fact that they would have to publish the notice in the different places in the precinct—post notices also?

Mr. IVINS. Yes; it is also a fact that notices may be posted up in a district where people never see them, and I have known it to be done. It has come under my own observation.

Mr. CREER. Mr. President, I would like to ask Mr. Ivins a question. This does not cover the school district? It also covers towns and counties. Therefore, if they want to make any improvement—get an expression of the people, there is no way of reaching that—simply by absenting themselves they can defeat the whole thing. Now, in all legislative bodies we have a compulsory process to compel a majority. Does this apply also to the citizens of the towns and villages, and other subdivisions, besides school districts?

Mr. IVINS. I suppose it would. I am in favor of it applying to them.

Mr. CANNON. Mr. President, the objection I have to the amendment is this, every man who might be detained from the polls, even though he might vote for the proposition, would be counted against it. I think it would be unfair. I think in addition to that, there might possibly be as many men away from home who might want to vote for a tax as were away from home who would oppose the tax, and it would be unfair in that case to count the absentees all against the proposition. The lists had not been revised, every man who might have died or might have removed from the district, would be in the same way counted against the proposition. I am certainly in favor of defeating the amendment.

Mr. BOWDLE. Mr. President, this is a very absurd proposition, to say the

least of it. Suppose that you have a registration list of a hundred voters, it would require fifty-one of those to vote a tax. You commence in the morning, the registration list has a hundred voters. Suppose that one of those voters should die during the day, how are you going to determine whether you have got an election or not? How would you arrive at a conclusion in that manner? I think that the face of the thing would be absurd.

Mr. RICKS. Mr. President, I have a proposition that I wish to mention before this goes to a vote. I believe that the section ought to be so amended as to make it necessary for at least a majority of the residents of any district, county or city to vote on a proposition of this kind, providing that a majority of those ought to decide a tax. And I believe if you strike out in line 7 the words "and voted or by a majority," it would cover exactly the objections made so that it would read, commencing in line 6, "unless the proposition to create such debt shall have been submitted to and voted on by a majority of the qualified electors thereof." It would render it necessary for a majority of the electors to vote on a question. And then if a majority of them voted in favor of the indebtedness, it would be created, but as it is, without the amendment of Mr. Snow, if there are a thousand electors in any district and twenty of them go and vote, eleven of them can vote the indebtedness or the tax, and I am not in favor of leaving it in that way, neither am I exactly in favor of the amendment of Mr. Snow, but I believe that the amendment that I propose, if adopted, will leave the question to the majority.

Mr. ALLEN. Mr. President, the gentlemen from San Juan and Washington, speaking about these cattlemen—I know of men that have large herds and they do not care whether their children have education or not. They are the men that are able to pay taxes and the tax

is voted on. They do not grumble at it, yet they would not go the polls either for or against, and if they were compelled to go to the polls some of them would vote for it, but they are indifferent and pay no attention to it. Therefore, I think the amendment ought not to carry.

The amendment of Mr. Snow was rejected.

Mr. RICKS. Now, Mr. President, allow me to submit my amendment.

The amendment of Mr. Ricks was rejected.

Section 5 was read.

Mr. EVANS (Weber). Mr. President, I now move to strike out the word and figure five, in line 6, and insert in lieu thereof the word and figure two. I must submit a remark or two on this. This to me is more vital than anything else. I want to show you, gentlemen of the Convention, just in figures, for a moment, where this section is leading us. We started out yesterday and the motion was voted down, but I do not believe that this Convention apprehends the real danger of this section. I am going to take for illustration Salt Lake City and Ogden City, with respect to their assessed property valuation. I will first take Salt Lake City. It has an assessed valuation in round numbers of forty million dollars. We can levy under this section twenty per cent. of the taxable valuation of that property. That would permit an indebtedness for city, county, and school within the State, of eight millions of dollars, or in other words it would permit an indebtedness for these purposes of one hundred and sixty dollars per capita. I believe the amount of money equally distributed throughout the United States would only amount to from twenty-seven to thirty dollars per capita. Now, we take Ogden City, as I understand it from a statement made to me this morning by the mayor, our assessed valuation is about twelve millions of dollars. If we can levy for the purpose

of indebtedness twenty per cent. under these sections, we can incur an indebtedness of two millions, four hundred thousand dollars for these various purposes. That would amount exactly to one hundred and sixty dollars per capita. It seems to me that these figures are perfectly appalling when examined. It would seem to me that upon this question of public indebtedness we are simply running mad. We have gone already to a considerable length in respect to these matters, but here is an article which will permit us to go far beyond what we have already been entitled to go. Judge Dillon, the authority upon municipal corporations, gave an opinion with respect to the very situation which exists here in Utah. He holds that school indebtedness and the city indebtedness are separate and distinct; that they are two political subdivisions for that purpose, so that this section will be construed as to indebtedness as meaning that the city may go in debt five per centum for general purposes, five per centum for water, lights, and sewers, which is ten, the school district five per cent. and the county five per cent., that makes twenty per cent. As I have amended this section, the total indebtedness would be seven per cent., one for general city purposes, that would not include of course the present indebtedness, because that is already provided for in section 7, so that this would be a legalized debt and would be required to be paid. One per cent. for general city purposes after the adoption of the Constitution, and one per cent. for county purposes. That is certainly ample; one per cent. after the indebtedness which we have already assumed; that is certainly ample; and two per cent. for water works or lights or sewers. Salt Lake City has a valuation of forty millions of dollars; two per cent. would allow eight hundred thousand dollars for these purposes; it would allow Ogden for the purpose of establishing water works two hun-

dred and forty thousand dollars. It seems to me that is amply sufficient, but not only that, a portion of the general taxes collected for the city could be appropriated for those purposes. Now, gentlemen, are we willing to say in the light of the past experience that we will permit these political subdivisions to go in debt more than seven per cent? Is not that liberal? It is beyond what I think it ought to be, but it seems to me that we certainly ought to agree upon these figures. Talk about twenty per cent. of indebtedness for these political subdivisions. Why, gentlemen, it is one-fifth of the entire wealth of the State, including its real and personal property. Would any individual desire to go in debt for one-fifth of his worth? Indeed, it would exceed one-fifth, because we already permit about one per cent. territorial purposes. I, therefore, am in favor of this amendment.

Mr. CREER. Mr. President, if this proposition of the gentleman was adopted it would work a great hardship to other cities that have not already gone in debt. Now, for instance, we will take the city from which I come, Spanish Fork. I think we have an assessed valuation of from nine hundred thousand to a million dollars; we have no way now of protecting the property there—that is from accidents by fire. This motion would simply give us the power to assess for water works about two thousand dollars; therefore we would be perpetually or forever prohibited from establishing water works. Of course these other cities have already got the benefit of these water works and the benefit of electric lights and such things as those, and we want some opportunity; we cannot get it by the annual taxes, because we are limited in that.

Mr. EVANS (Weber). You would be allowed to go into debt thirty thousand dollars.

Mr. CREER. No, sir.

Mr. EVANS (Weber). One per cent. and two per cent. for water works—

Mr. CREER. Well, three thousand dollars—

Mr. EVANS (Weber). It would allow you thirty thousand dollars if you have a million.

Mr. CREER. That even would not be sufficient to establish water works for our city, but I take it that it would not allow that much, because we have got to take besides water works, electric lights and other improvements as well; we would be limited to this tax. I say that this would be unjust and unfair to other cities who had not already got these advantages that Ogden and Salt Lake and Provo and the other large cities of the Territory have to-day, and we should not be prevented from voting those improvements. They are actually necessary, and I am opposed to this. Therefore, I move an amendment, that we make it not to exceed three per cent.—strike out the word and figure five, in line 5, and make it three, and in line 19 also. I think the statute provides now four, and I am willing to decrease it one per cent.

Mr. PETERS. Is it too late to offer an amendment which would practically be an amendment to the amendment?

Mr. CREER. This is an amendment to the amendment.

Mr. CANNON. Mr. President, I am opposed to both of these amendments. This was very thoroughly discussed in the committee of the whole, and the committee decided to leave the article as it is. As it was there pointed out, this is left to the people, and unless the people vote upon it, those who have paid a property tax the year before—unless they vote to have indebtedness, it cannot take place at all. I have been looking over the report of the governor to the secretary of the interior while the gentleman from Weber was speaking, and I find quite a number of the cities far exceed the amount we have named

already. I have selected four of these, Brigham City exceeds the amount of \$19,866. I am informed by the gentleman from Brigham City, one of the representatives of their county, that they have there a most excellent system of water works, and that is a great benefit to the city—more than the amount of indebtedness they have incurred. In Corinne also, they have \$4,663 more than the amount; in Logan they have \$25,998 more than we propose. In Manti they have \$7,311, and so you could go on through the different cities of the Territory. Those that have been the most progressive and that have benefits to show for that which they have increased their indebtedness for, and I think we can safely leave it to the people, just as it is in the article. I am opposed to the amendment.

Mr. PARTRIDGE. Mr. President, I favor Mr. Evans' amendment. If we cannot get that, I would favor two per cent. If we could not get that, I would take the next best. It was said by the gentleman who was last up that this tax cannot be levied without the people vote for it. We have just decided that question, that a minority can vote the tax. If it had been carried that a majority was necessary, it would not have been so bad, but under the existing condition of our action, I am opposed to putting such a high limit and allowing a minority to vote an excessive tax on the people; therefore I shall vote in favor of Mr. Evans' motion, and if that does not prevail, I will favor the next best.

Mr. ELDREDGE. Mr. President, I shall favor the amendment offered by the gentleman from Utah County, for the reason that I think it is unsafe to grant power to create an indebtedness to the amount that this section does as presented by the committee. I think that if we will look at the history of the people of Salt Lake City and of Ogden, the last few years, we will con-

clude that had there been an opportunity to have created an indebtedness to the extent that it is here provided, that there has been a period that that indebtedness would have been created, and it is reasonable to presume that history will repeat itself, and that sometime in the future if this provision prevails, there may be a condition of things which will lead the people up to do just what they would have done had they had the opportunity in the past. Now, we find that Salt Lake City has reached its limit, as was provided by law, and to-day there hangs over the city an indebtedness of \$3,573,000, and under this provision they could have extended that indebtedness to eight millions of dollars. Therefore, I am opposed to giving such unlimited powers in the interests of creating indebtedness.

Mr. VARIAN. Mr. President, I came here this morning prepared to reduce that percentage, but I am confronted in my own mind at least with an objection that might be obviated perhaps by a reconsideration of the section, which provides that this limit shall include existing indebtedness. Now, take the city school district here; I believe there is an indebtedness of some eight hundred thousand dollars; that would be the existing indebtedness; if we reduce this to one per centum, which would be some four hundred thousand dollars—it would provide for only half of the indebtedness already existing and during the life of these bonds and until they were all paid, the school district here in this city would be crippled and prevented from expending or improving in any way. I think about two and a half or three per centum would obviate that objection or a special exception as to the municipalities and cities of a certain class, but if this amendment shall prevail of Mr. Evans' the conditions will be just as I stated.

Mr. THORESON. I would like to ask

the gentleman if section 8 of this same article does not cover that case?

Mr. VARIAN. No; lines 5 and 6 of this section, "shall not for any purpose become indebted for an amount including existing indebtedness," etc. Now, if you put in one per centum that fixes this city school district for a good many years.

Mr. EVANS (Weber). He called your attention to section 8.

Mr. VARIAN. There seems to be a conflict, although I am not quite certain as to the meaning of section 8. Section 5 is quite specific. It says that they shall not, for any purpose, become indebted to an amount including existing indebtedness. Now, section 8 provides: (Reads.) I think it is still within the limitation of this maximum percentage. It is simply a declaratory clause at the close of the article, that nothing shall be intended by this article to impair the going into debt upon submitting to a vote of the electors, etc., within the limitations of section 5. I submit that three per cent. would be a better provision there, or that a special exception be made for certain cases which would involve the reformation of the entire article.

Mr. FARR. Mr. President, I have listened to the conflicting views of the members here, and I have pretty carefully looked this section over, and I, for one, would prefer to leave this section to the future Legislature than to pass this question as it is, and especially according to the various ideas and notions of the members present; consequently I shall make a motion to strike out section 5.

The PRESIDENT. The motion is not in order now.

Mr. THORESON. Mr. President, I want to state in behalf of the committee that the committee was of opinion that section 8 covered the present indebtedness under the territorial law, and that section 5 has no reference what-

ever to the present territorial indebtedness, but that the existing indebtedness here referred to would be under the State Constitution, and I believe that the judgment and the views of the committee on this—it is set forth in section 8—seems to be very plain. Under the territorial law no debt can be created without a vote of the people; that is, bonds could not be issued. Hence, this is to cover up existing indebtedness of the cities referred to particularly. There may be an exception or two outside of Salt Lake City and Ogden City. But it was particularly inserted for the benefit of these two cities to cover the present indebtedness.

Mr. RICHARDS. Is it not a fact if the construction that you place upon these sections be correct, that if when the State is admitted an indebtedness shall exist at that time up to this limit, it cannot be increased—no further indebtedness can then be incurred?

Mr. THORESON. Indebtedness created after the admission could not be increased above the limit fixed by section 5.

Mr. RICHARDS. But if an indebtedness existed at the time of the admission of the State up to the limit, then would it not be impossible for the State or town or district to create any greater indebtedness after that?

Mr. THORESON. They would have a right to go and create a limit fixed in section 5, over and above the limit of the territorial law.

Mr. RICHARDS. I do not think it possible to place that construction upon this language.

Mr. CANNON. Mr. President, I believe I have the same view expressed by Mr. Richards. I think that section 5 limits the indebtedness including existing indebtedness to a certain per cent. It expressly states that.

Mr. RICHARDS. That is to say, that if at the time of the admission of the State, the indebtedness of the State is

up to this amount no further indebtedness could be created?

Mr. CANNON. Yes, sir. That is my understanding. I call attention for instance to Salt Lake City, which has a six per cent. indebtedness at the present time. Salt Lake City, under this provision, could not increase her indebtedness at all, except for purpose of procuring water privileges or electric lighting, etc.

Mr. VARIAN. How about the schools?

Mr. CANNON. The school districts the same way.

The amendment of Mr. Creer was rejected.

The amendment of Mr. Evans, of Weber, was rejected.

Mr. PETERS. Mr. President, I desire now to offer my amendment.

Mr. EVANS (Weber). Mr. President, I now move to strike out section 5.

Mr. Peters' amendment was read as follows: Strike out lines 1, 2, 3, 4, 5 and 6 of section 5, and substitute the following:

Even when authorized to create indebtedness as provided in section 4 of this article, no county shall for any purpose become indebted to an amount, including existing indebtedness, in the aggregate exceeding two per centum, and no city, town, school district, or other municipal corporation shall for any purpose become indebted to an amount including existing indebtedness in the aggregate exceeding four per centum.

Mr. PETERS. Mr. President, the object in making this motion is for the purpose of reducing the debt limit of counties. As the article now stands the debt limit of the State is about one per centum of the assessed valuation. That is, including present indebtedness. The next largest subdivision of the State is the county, and includes all of the municipalities. Under this section 5 a county may incur an indebtedness up to five per centum of the assessed valuation, which in my mind is excessive. Two per centum will cover all that will ever be necessary. That is to

provide a sufficient amount to raise funds for all necessary expenses of that county. As the statutes now stand no county is authorized to bond to an amount exceeding one per cent. of its assessed valuation, notwithstanding that the United States statute provides that the debt limit shall be four per centum. Now, as to cities, we come nearer to the people, and it seems to me that they ought to have the right to borrow more than a county for the reason that money that they secure is usually for an immediate purpose and benefit of the city, for the purpose of putting in water works and so on. At the present time each incorporated city is authorized to borrow an amount not exceeding four per centum of its assessed valuation. Many have taken advantage of that provision and have already placed in excellent watersystems. We have in our own city a system that has cost us about twenty-eight thousand dollars. Now, when you come to say that a city can put in a water system for three per centum of its assessed valuation, that will render any service to that city, it is a mistaken idea—that is for a small city. It would do very well probably for a large city, because the assessed valuation is so much larger in that city. The lower rate of per cent. would bring a larger sum of money; but when you take a city of twenty-five hundred inhabitants or three thousand and attempt to say that they can put in a water system for three per centum of the valuation, the wealth of those cities will have to far exceed to-day what they are in the Territory of Utah. The assessed valuation of our city is about seven hundred thousand dollars and four per cent. of course will be twenty-eight thousand dollars, and the water system to render it of sufficient service in our city really ought to cost about thirty-five thousand dollars. We are now unable to even furnish the people with water that they would desire and by that means we cut

off the revenue. If we could extend our system so that it would bring in more families and more users we would be better able to pay the interest and create a fund to meet the original indebtedness. Now, I would be willing to have the counties one per cent.; in fact I would not care if they would not be authorized to borrow at all, but two per cent. it strikes me is sufficient, and four per cent., as the section now reads, is high, and the object of my amendment is to make a distinction between counties and cities. I will say that I had a further amendment to the last part of the section, to strike out the word five and insert the word three, in line 15.

The question being taken on the amendment of Mr. Peters, the Convention divided, and by a vote of 50 ayes to 3 noes, the amendment was agreed to.

Mr. EVANS (Utah). Mr. President, I move to amend section 5 in line 19, by striking out the word five and figure 5, and inserting the word three and figure 3, in lieu thereof.

The PRESIDENT. That has been voted down.

Mr. EVANS (Utah). If the chair please, I would like to be heard on that, It is not the same thing. That that was voted down was to strike out five and insert two.

The PRESIDENT. No, sir; it was three. It was Mr. Creer's motion to insert three in place of five.

Mr. EVANS (Utah). Then, I will make it four.

The question being taken on the amendment of Mr. Evans of Utah, the Convention divided and by a vote of fifty ayes (noes not counted) the amendment was agreed to.

The PRESIDENT. The question now before the house is on the striking out of the entire section.

The motion was rejected.

Mr. PRESTON. Mr. President, I move to strike out, commencing in line 16, all the balance of the section. Cities

can provide all those things without that proviso in there. Cities and towns where they need this kind of improvements can provide for them without that part of the section.

The motion was rejected.

Sections 6 and 7 were read.

Mr. BOYER. Mr. President, I move to amend section 4 in line 10, between the words "a" and "majority" insert the words, "two-thirds."

The motion was rejected.

Mr. THURMAN. Mr. President, I desire to offer a substitute for section 1:

The indebtedness of the State at any one time shall never exceed the sum of two hundred thousand dollars. This section shall not be construed to prevent the State assuming the present indebtedness of the Territory and paying the same as may be provided in this Constitution.

I suppose the article on schedule will provide for that.

Mr. VARIAN. Mr. President, of course that is not in order, but the matter is so important I will waive that question.

Mr. THURMAN. Mr. President, I desire to call attention to the objection. I am satisfied that the mover of that substitute and the Convention had in mind the object that I seek to attain now. Of course that section that I offer contemplates that the article on schedule must provide the payment of the territorial debt.

Mr. VARIAN. Congress provides that too.

Mr. THURMAN. Yes, Congress provides that we must do that. The objection that I have to this may be considered hypercritical, but at the same time I am satisfied that we want to place this matter beyond question. I will call the attention of the Convention to the point I make. "The State may, to meet casual deficits or failures in revenue and for necessary expenditures for public purposes, including the erection of public buildings, and for payment of the territorial indebtedness, assumed

by the State, contract debts, not exceeding in the aggregate, at any one time, the sum of two hundred thousand dollars over and above the amount of the territorial indebtedness assumed by the State." The point I make is this, that it points out specific objects for which the State shall not exceed a certain limit of indebtedness, leaving the State to go in debt without limit for any other purpose, should it feel inclined so to do. Then the balance of it rather emphasizes that fact, I think, "and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness for the purposes herein mentioned, in excess of the sum of two hundred thousand dollars." Leaving it again, limiting the State only as to the purposes specified, and not for purposes which may not fall within the enumeration. Now, the substitute I offer is not as perfect as I would like it, but it seems to me to meet what I believe the mover of this substitute designed.

Mr. ROBERTS. I desire to ask the gentleman from Utah if it would not be better to provide there for the indebtedness of the State existing at the time—the indebtedness that might be assumed at the time it was assumed? It says, "at the present time."

Mr. THURMAN. Yes, that is what I intended.

Mr. VARIAN. Mr. President, I do not think that the section, in the light of section 2 taken in connection with it, is susceptible of the construction that there is no limit as to other purposes. I take it that a familiar rule of construction would warrant the putting of this meaning upon this article and this alone, where they undertake to point out and specify the power of the Legislature or the people with reference to certain matters, all else not specified or embraced by implication within the grant would be excluded. This is made clear particularly here, by reference to the second section which provides in

addition to the above limited power to contract debts, "the State may," etc. So you take the two sections together, I do not think there is any question about that. I think it is perfectly clear. So far as the other objection is concerned, I, for one, intended just what I put in here, to limit to certain purposes. I thought the Convention desired that. I certainly wanted to vote to limit its power of contracting indebtedness for the State to certain defined purposes, and not leave it open, and I thought this included all the purposes we would be willing to go in debt for.

Mr. THURMAN. Reading the latter part of it again, "and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness." Now I will ask the gentleman if he objects to the following four or five words being struck out, "the State shall never contract indebtedness for purposes herein specified," strike out "for purposes herein specified." If that is accepted, I would withdraw my substitute.

Mr. VARIAN. I do not wish to be tenacious, but I really do not put the construction on it that you do, Mr. Thurman.

Mr. ROBERTS. Mr. President, before that question is put—in addition to the defects as I look upon it already stated by the gentleman from Utah County, I think there is another objection to this substitute as it stands, and that is in the latter part of the substitute or the section as it has been adopted, "and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness for the purposes herein specified in excess of the sum of three hundred thousand dollars." Now, from the rather hurried consideration that one has been able to give this section in the midst of the confusion of the house and trying to keep track of other questions, it seems to me that as it stands here your indebtedness of the State may play between

the limit of nine hundred thousand dollars. That is, we will suppose that the territorial indebtedness is paid all but two hundred thousand dollars, or one hundred thousand dollars; so long as it is not entirely paid off it may be increased again and run up well nigh to the nine hundred thousand dollar line, and I think I am not mistaken in regard to the effect of that under the present reading of this section. So that the State indebtedness, so long as you refuse to pay off the territorial indebtedness, may constantly play between a hundred thousand dollars and nine hundred thousand dollars.

And then again, I, for one, am convinced that by making the enumeration here of specific purposes for which the State may go in debt, placing the limit for these specified purposes to two hundred thousand dollars, that for purposes that are not specified the State may go into debt. Now, I have prepared a substitute on these lines as follows, following very much the language that is found in the section as reported to the Convention by the committee; making it a part of my argument now, and not offering it as a substitute, it would be as follows: "The State may, to meet casual deficits or failures in revenue or for expenses not provided for, contract debts, but such debts, direct and contingent, in the aggregate shall not at any time exceed two hundred thousand dollars, not including the present indebtedness of the Territory of Utah, which is hereby assumed by the State of Utah. The moneys arising from the loans creating such debts shall be applied to the purposes for which they were obtained to repay debts so contracted and to no other purpose whatsoever. And except for the purposes named in this section and in section 2 of this article, no indebtedness shall be incurred by the State." Now, it seems to me that if a provision of that kind were adopted, it would clear away all

possible difficulty that might arise in construing this section, but as the section is now, I cannot vote for it, nor can I vote for the article if that section is retained in the article.

Mr. VARIAN. Mr. President, I think we can arrive at the idea. Mr. Thurman suggests that we strike out the words, "for the purposes herein specified," and insert "except as in the next section provided." I have no objection to that if that will satisfy the gentlemen on the other side.

Mr. THURMAN. I will accept that and withdraw my substitute.

The amendment was agreed to.

Mr. PETERS. Mr. President, in order to make the language a little more uniform, I would ask that the word "even" be stricken out in that amendment of mine.

The amendment was agreed to.

The roll being called on the adoption of the article the result was as follows:

AYES—88.

Adams	Lambert
Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Bowdle	Lowe, Wm.
Boyer	Lowe, Peter
Brandy	Low, Cache
Button	Lund
Buy	Maeser
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Moritz
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Murdock, Summit
Crane	Nebeker
Creer	Page
Cunningham	Partridge
Cushing	Peters
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Preston
Engberg	Raleigh
Evans, Utah	Richards
Farr	Ricks

Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Heybourne	Snow
Hill	Squires
Howard	Stover
Hughes	Thompson
Hyde	Thoreson
Ivins	Thurman
Johnson	Van Horne
Jolley	Varian
Keith	Warrum
Kearns	Wells
Kerr	Williams.

NOES—1.

Evans, Weber.

ABSENT—17.

Driver	Morris
Halliday	Peterson, Grand
James	Spencer
Kiesel	Strevell
Kimball, Salt Lake	Symons
Kimball, Weber	Thatcher
Lewis	Thorne
Mackintosh	Whitney.
Miller	

The president declared the article adopted, and referred to the committee on compilation and arrangement.

Mr. LUND. Mr. President, under the resolution that was passed this morning, the committee on expenses would report as follows:

Convention Hall,
April 19, 1895.

Mr. President and Gentlemen of the Convention:

We, your committee on accounts and expenses, complying with the resolution introduced this morning by Mr. Francis, beg leave to report as follows:

We have consulted a number of the chairmen of different committees, also a number of other delegates, and have reached the following conclusion: It may appear at times that the officers are not fully employed, but we submit that the implied (if not the expressed) intention of the Convention in employ-

ing its officers was that they were employed for the entire session.

The committee on compilation and revision has yet a great deal of work for the committee clerks, hence their service cannot be dispensed with. Assuming our understanding of the employment of the officers expressed in the foregoing to be correct, we believe it beneath the dignity of this honorable body at this late stage of the proceedings to discharge any of its employes before final adjournment. We therefore recommend the retention of all employed, and also recommend their payment in full from the government appropriation.

Very respectfully,

A. C. LUND, Chairman.

A. J. CUSHING,

JOHN R. BARNES.

The report was adopted.

The Convention then, on motion, took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. ADAMS. Mr. President, I now move that the article on the calendar on public lands be replaced on the calendar in its regular order.

The motion was agreed to.

Mr. EVANS (Utah). Mr. President, I move you that the action of this Convention just preceding its adjournment, in regard to the adoption of the report of the committee on expenses and accounts, be reconsidered.

The PRESIDENT. The chairman of the committee is not here.

Mr. EVANS (Utah). I only ask to give notice now that I expect to call that up.

Mr. EICHNOR. Mr. President, I now move that the Convention resolve itself into committee of the whole for the consideration of the article on water rights, irrigation and agriculture.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Cannon in the chair, and proceeded to the consideration of the article entitled water rights.

COMMITTEE OF THE WHOLE.

Section 1 was read.

Mr. MALONEY. Mr. President, I

move to strike out the entire article, sections 1, 2, 3 and 4.

Mr. EVANS (Utah). Mr. Chairman, I would like to ask whether there is a minority report accompanying the majority report.

The CHAIRMAN. There is a minority report.

Mr. EVANS (Utah). If so, I would ask that it be read before the motion is taken upon striking out this entire article.

The minority report was then read.

Mr. CHIDESTER. Mr. Chairman, I desire to offer a substitute now for the entire article.

Mr. SNOW. Mr. Chairman, I move you that the minority report be accepted and the majority report rejected.

The CHAIRMAN. Before that motion can be entertained, a substitute has been offered by the gentleman from Garfield County, which will now be read by the secretary.

Mr. Chidester's proposed substitute was read as follows:

The Legislature shall provide by law for the regulation, distribution, and controlling of the waters of this State, and may provide by law such rules and regulations under which rights may be acquired to any of the waters of this State for any useful purpose, and shall also provide for the protection of all water rights acquired or to be acquired for any useful purpose.

Mr. PETERS. Mr. Chairman, I arise to a point of order. I notice the substitute that has just been offered by the gentleman is nothing more nor less than the minority report—section 2 of the minority report. I think that Mr. Snow's motion ought to precede it.

Mr. CHIDESTER. I beg to differ with the gentleman. It is a part of the minority report.

The CHAIRMAN. The chair would rule that the substitute is in order.

Mr. CHIDESTER. Mr. Chairman, I wish to say in regard to this article that I have considered it a dangerous article. It is in my

opinion a failure in that it proposes to take from the government of the United States water rights and transfer it to the State. In my opinion that cannot be done. All that could be done is what the Enabling Act has given them. That being the case, we have no need of such an article as this. In the second place, I believe that the right of eminent domain so far as it is calculated to condemn water rights for public purposes is also evaded. I believe that the present law that we have in regard to water rights is as good as any that exists in the United States. While, of course, it has not been confirmed by the courts—if it had been, it would be a good law to-day—it has saved many a lawsuit. The system that is inaugurated in our present law has saved a great deal of litigation, and the substitute that I offer puts us in the position to leave this matter to future legislation. It provides that the Legislature may handle this, and in so doing may adopt a law similar to the one that we have now, which in my opinion is all that we need, but to take this provision as it stands here, in my opinion, would be to work a hardship upon the people. And then again, the engineer and board of control, in my opinion, is an expensive luxury in which we do not, or should not wish to indulge. It would be impossible for us to repeal it unless it was done by constitutional amendment. If this was left to the Legislature and they tried the scheme and it was pronounced a failure, they could do away with it. Therefore, I think it is unsafe to couch that within the Constitution, but leave that to future legislation, and I think that they will govern this matter and enact laws that will be calculated to further the ends of justice in this regard.

Mr. SNOW. From what you have said, I understand that your substitute is substantially section 2 of the minority report.

Mr. CHIDESTER. It is.

Mr. SNOW. Section 1—You are not opposed to that?

Mr. CHIDESTER. I am not opposed to that, but it simply puts us in this position, that we are asserting something in the Constitution that we could not interfere with anyway. We cannot interfere with those existing rights; it would be unconstitutional. We cannot take away any existing rights.

Mr. SNOW. But you state a recognition here and confirm it. I ask the gentleman to consider that and see if he cannot accept it.

The minority report was re-read.

Mr. CHIDESTER. I can accept that all right; I was misled. This was laid on my table and I supposed this was the one. I would withdraw my substitute for the purpose of admitting the minority report.

Mr. SNOW. Mr. Chairman, I wish to make the motion that I tried to make several times, that the minority report be accepted.

Mr. L. LARSEN. Mr. Chairman and gentlemen, I wish to make a few explanations. As Mr. Snow has said, the minority does not include the first part of this article that has been distributed around. It is an article for both the majority and the minority reports. The minority report has not got the first three lines in this article. I hope that the motion that the minority report be accepted will prevail. My first idea on the subject of water rights was this, not to include this part—the majority report. I was opposed to that, where it cedes to the State the water—the property, but finding a number of gentlemen in the Convention that were in favor of this, I was for including that part, but if the Convention should prefer to have this part left out, I certainly would be in favor of voting for the minority report as it stands, and I hope that motion will prevail. I am not in favor of creating new and expensive offices in this State, which I believe the

people would not be in favor of when it is presented to them for their votes for election. I think they will oppose the Constitution on that ground. I think it would be better to leave that part to the Legislature to provide for them if they deem proper to do so, and if they should make a mistake at any time, they can correct this, or it can be corrected by future legislation, and for this reason I hope the motion will prevail.

Mr. BUTTON. Mr. Chairman, who is the father of this report, I would like to know?

Mr. JOLLEY. Mr. Chairman, I will answer that, it was Mr. Larsen, who has just taken his seat. Mr. Larsen is the father of the minority report, and as he has stated there were some gentlemen that wished a little addition, and he allowed an addition to the substitute for both the minority and the majority report, and that is what has been distributed over the house. Mr. Chairman and gentlemen, I would state that there appears to be a great uneasiness among the farmers of this Territory in relation to the word ceding the water to the State. They feel as though they ought to be protected very pointedly in their already acquired rights, and that the Legislature will be a safe body to regulate those things, and while I am up I will just say in conclusion that I favor the minority report on those grounds. I think it will give perfect satisfaction to the people throughout the Territory—that is the farming community, and it will cause that fear to leave their minds that now is existing. I have been written to in relation to this matter, and petitioned to do all that was possible to prevent the water being given to the State as its property, and I would say, "let us vote for the minority report."

The CHAIRMAN. Gentlemen, I wish to make a ruling to this effect: I believe it is improper to move to strike

out an entire article and substitute another article. The only way in which this can be done is by striking out section by section and substituting sections of the proposed article.

Mr. JAMES. Mr. Chairman, before you make a decision—there is nothing to hinder that from being done, providing the Convention consents to it.

Mr. EVANS (Utah). I do not understand that to be this question; I understand the motion to be that we adopt the minority report.

Mr. SNOW. That is the motion.

Mr. CHIDESTER. Mr. Chairman, it would be impossible to comply with your ruling for the reason that there are only a few sections in the substitute.

Mr. EVANS (Utah). Then, I arise to a point of order. There has been a motion made to adopt this minority report and it is now before the Convention for discussion.

Mr. SNOW. Mr. Chairman, I appeal from the decision of the chair. All I have to say is this, that I think we are governed in committee of the whole by the same rules that govern the Convention so far as they are applicable. They are applicable in everything but to shut off debate, or to limit it. The only object in committee of the whole to ignore these rules is that we may have freedom of discussion. I think when there are two reports before the committee, a minority and a majority report, that it is the privilege of the Convention to accept one and thereby reject the other. It seems to me this is a plain proposition, and that is all there is before the committee.

Mr. SQUIRES. Mr. Chairman, I read from Roberts' rules of order, section 32, on committee of the whole. (Reads.)

Mr. IVINS. I just want to ask Col. Squires, if there is any difference between adopting a report and accepting a report? That is what the motion is—to adopt the report of the minority.

Mr. SQUIRES. We have under con-

sideration this article on water rights and irrigation and we may adopt or reject any section of that article.

Mr. NEBEKER. Mr. Chairman, I call the chairman's attention to the fact that the motion of Mr. Snow is simply a motion to amend in this, that it proposes that this committee shall adopt the minority report instead of the majority report. It is really a motion to amend.

Mr. THORESON. Let me call attention to the fact that in the record, page 136, thirty-third day, the gentleman presents a minority report, which, under the rule, was referred to the committee of the whole. The minority report is before the committee now for action and the motion to adopt is proper.

Mr. BUTTON. Mr. Chairman, may I have the floor a minute now?

The CHAIRMAN. Yes, sir; if you wish to speak on the subject.

Mr. NEBEKER. Mr. Chairman, I object, unless it is to state a point of order. I submit that I have the floor.

Mr. BUTTON. Have we not a right to debate this point of order on the appeal?

The CHAIRMAN. Mr. Nebeker had the floor; he had not finished his speech.

Mr. EVANS (Utah). Mr. Chairman, I arise to a point of order. My point is this, that there has been a ruling made of the chairman, as I understand it, that Mr. Snow's motion is out of order. That has been appealed from, which has been properly seconded. The only business before this Convention is the debate as to whether the decision of the chair should stand as the judgment of the assembly or no.

The CHAIRMAN. The point of order is not well taken, for the reason that that is what is being discussed.

Mr. NEBEKER. Mr. Chairman, I am not in favor of the minority report—

Mr. HART. Mr. Chairman, I understand the motion before the house now is whether the decision of the chair shall stand?

The CHAIRMAN. That is correct.

Mr. NEBEKER. I did not wish to speak to the appeal at all.

The CHAIRMAN. Mr. Button has the floor.

Mr. BUTTON. Mr. Chairman, on the twenty-fifth day, page 106 of the journal, rule 20—

Mr. EVANS (Utah). Mr. Chairman, I arise to a question of personal privilege. The point of order I raised—I desire to read this rule as personal privilege. (Reads from rules.) My point of order is, the only thing to do is to put that question.

The CHAIRMAN. The point of order is not well taken. This question is debatable. Mr. Button has the floor.

Mr. BUTTON. Mr. Chairman, I just wanted to read rule 20 as amended; that applies to committee of the whole. (Reads.)

The point of order raised here on this question. This article could not take the place of another.

Mr. HOWARD. I would like to call the attention of the chair to page 82 of Roberts' rules of order. (Reads.)

The CHAIRMAN. The position of the chair is as follows:

The chair contends that in committee of the whole, a motion to adopt a report, either of the minority or majority, is out of order. The only place where a report such as that can be adopted, is in the Convention. Reports of committees are made to the Convention and not to the committee of the whole.

The question being taken on the appeal, the committee divided and by a vote of 45 yeas to 34 noes, the decision of the chair was sustained.

Mr. CHIDESTER. Mr. Chairman, I now insist on my substitute for the whole article.

Mr. SQUIRES. Mr. Chairman, I arise to a point of order; that it is our duty to consider this matter section by section, and no substitute for the entire article can be received.

The CHAIRMAN. The point of order is well taken.

Mr. SNOW. Mr. Chairman, I move to strike out section 1 of the majority report and substitute section 1 of the minority report.

Mr. FARR. Mr. Chairman, I will say that I have heard a great deal said in the last fifteen or twenty minutes, and a great deal of confusion, but I must say that I have not been able to comprehend any of it. I do not understand it. This motion to substitute or strike out section 1 and substitute another—I have heard no complaint of the report of the committee. I am not very partial to any of the whole business, but I want to state to this honorable body that this committee consisted of fifteen men, and they spent some two or three or four weeks on it at different times and heard all the complaints and all the suggestions of all the members coming in on all sides, and suggestions outside of this Convention and letters from all parts of the Territory in regard to the matter; they were all submitted to this committee, and they have had all this to take into consideration. They have got the best wisdom and talent and ability of the territorial board of irrigation, which they have put their minds and attention to for the last year or two. They have sent to Colorado and Arizona and California, and got the best opinion they could and they have fixed up a very nice report. I have heard the other, but the committee has got them all together and consolidated them, and this report of the committee embraces everything that all this talk and hurrah has been made this afternoon. It takes the whole of it in and what in the world is the trouble, I cannot tell. They do not make any point, only this one wants his report, and this one wants his idea in and they jump up around. I say it is time to go at it like men and if there is any fault to be found with it, put in the reason and if it is unworthy,

we can strike it out. I think there is time enough spent on this. I would like to get down to business.

Mr. NEBEKER. Mr. Chairman, I am in favor of Mr. Snow's motion. In the first place, section 1 of the minority report in my opinion means nothing; there is no advantage in my mind to the irrigators of this State to have that section inserted in the Constitution, because the Constitution, without it, will provide means by which vested rights shall be recognized and confirmed. Section 1 of the article as reported by the committee, or at least part of it, I believe to be a good thing, not with any view of the State confiscating any water rights, because I realize that vested rights to the use of water cannot be disturbed. If water has been appropriated for any beneficial use, whether we declare in this Constitution or not that the State can take charge of that water, the individual will have at least a day in court on that question and those rights will not be disturbed. But there is an advantage, as I understand it, in declaring the waters of all natural springs, lakes, and collections of still water within the boundaries of the State are hereby to be the property of the State, in this, that our Enabling Act has provided that we shall declare by ordinance that we will forever disclaim any right to the public lands in the State.

Now, it has been silent on the subject of water, and there seems to be an opinion in possession of attorneys who have studied this question that by making this declaration here in this Constitution, it is possible for the State to obtain ownership and absolute control of the unappropriated waters of the State. If that be true, I submit that it would be a good thing to do, because if we could by declaration obtain all the public lands of this State, I do not think there is a gentleman on this floor who would say that that would not be a good thing to do in that simple man-

ner, to become possessed of all the public lands in this State. So if we can do that by declaration and thereby obtain the control of the water instead of having to deal with the parent government hereafter, we will simply have to deal with our State Legislature, so far as acquiring right to any of the unappropriated waters in this State is concerned. I am opposed to the balance of the article as reported by the committee, for the reason that I do not think it would be wise for us to provide for a state engineer and board of control through this Constitution, because that will be a matter of experiment, and it may or may not be a good thing; and if it be a good thing, subsequent Legislatures can deal with that question. The principal argument, as I understand it, for a board of control is that the way the courts are now run it is a very hard matter for an individual to have a vested right confirmed, that the courts are expensive, or the expression has been used, in order to obtain a record of a vested right it was like creating a derrick to raise a sack of potatoes with. Now, I think I will here anticipate the action of this Convention in stating that I believe the judiciary article as reported by the committee will be adopted, and if it is adopted, we will have a court in each county, and if any individual wishes to have his water right made a matter of record it will be an easy matter for him, as plaintiff, to make every other individual who will own in that stream of water, defendants, so that the courts will have jurisdiction of the whole question and will make an order on the evidence, and that order can be made a matter of record and the title to water will then be confirmed in the same manner as the title to land is now confirmed, as I understand it.

Therefore, I think that if this Convention simply adopts the proposition that the waters of all natural streams shall be the property of the State, we

might go a little bit further to appease the apprehension that was mentioned here by Mr. Jolley, and say that the vested rights that have already accrued shall not be disturbed. We might make that declaration in this Constitution. I think it would be harmless and I do not think it would mean anything; at the same time, to appease that element that has been mentioned by Mr. Jolley, I do not think that that would be a bad thing to do.

Mr. CHIDESTER. If that be the case that through adopting this section it cedes to the State the waters of the State that are unappropriated and acknowledges the vested rights, how would the citizen obtain the right to water that is not appropriated at the present time?

Mr. NEBEKER. He would obtain that right through the regulation of a subsequent Legislature.

Mr. CORAY. I think I can answer that question, if the gentleman will allow it.

Mr. NEBEKER. I will yield for the gentleman, Mr. Coray, to place the gentleman from Garfield straight. [Laughter.] *

Mr. CHIDESTER. One more question, would it make any difference whether the water remained the water of the United States or the water of this State so far as the citizen obtaining a right to it?

Mr. NEBEKER. I do not think so.

Mr. CHIDESTER. It would be just the same one way or the other?

Mr. NEBEKER. I think it would be just the same one way or the other, any more than we would have the power to confirm the right nearer home, that is all.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee, when other men speak my mind, it is unnecessary for me to occupy your valuable time, but there are some points in this first section that perhaps I might enlighten the minds of you to a small extent. My friend from Bear Lake has

pretty much covered the ground that I wished to on that first section.

The object of the first section is this, nothing more or nothing less, simply to extinguish the right of the general government to the waters of the coming State of Utah, simply to extinguish the right that it may hold and let it revert to the domain or to the State. We might ask the question, who is the State, what is the State? The State is the people, consequently it confirms any original right that they may have. It reverts to the people—to the State, and that is all that that section can be construed, is that it is to extinguish the original right which the government may hold to the water and confer upon the new State. As my friend Mr. Nebeker said, it just simply brings the matter at home instead of having to carry our claims to the general government, and for this reason I hope that that section will be retained. I think it is a very essential section. You have all read it, of course, but there can be no other construction upon the section. (Reads section 1 of the majority report.) In some of the amendments, I notice there were certain references to useful purposes—that water was used for useful purposes. There may be any number of conflicting claims that would come up and they might be put upon that ground, substantially, useful purposes, but they might not have a legal right to the water although it had been used usefully, but this is all that that section contains, is simply to extinguish the right of the general government to the waters of this domain. I see the same furore is raised here on this floor—I am wholly pleased to have opposition, if I think I am right. It has created the same furore here upon this floor as it has throughout the whole country, and there were importunities sent from all parts of the country when they saw the article that was circulated to the members on this floor, which in substance is the same that this first sec-

tion contains, that it shall revert to the State. The committee even were very much prejudiced against that clause or against that portion of the printed matter that was circulated here. They were very much opposed to it, but when they came to look it squarely in the face and investigate the matter, it only confirmed the rights of the original owners. Now, there is a great conflict of interest in the way, as you all know, in every part of the country, and there is perhaps all of them—the use of the water is converted to useful purposes. No doubt about that, as all know that our lands are worthless unless we have the use of water, and this is one of the most intricate subjects that can be brought upon this floor, is the water question. That is the foundation of all our interests, both agricultural and manufacturing, and every other interest is planted upon the interest of the water, and as I said before I left my home, that if that one question could be regulated satisfactorily to the people of the country, I should then have spent my time, as I think, very profitably if that could be done, for there is nothing that is more intricate in regard to an interest than the water interest.

As you all know, there is no use of my detailing it; and we have come to this condition; we have come right here to this condition, now, gentlemen of the committee, that it is necessary that some legal steps be taken to define the true and correct rights of every individual. Where there is abundance of water, there is little or no trouble, but where water is scarce, there is such an intricacy of interests, one taking from the other, that I may be safe, and will be safe, I think, in saying that many men who think they have a legal right to water have none, and it will be necessary, in my opinion, that this water question will have to be put into the hands of a legal tribunal to adjust the rights of the various individuals, and for this reason I hope that this section

will be retained. That is all it conveys. You can make nothing else out of it. It brings the interest right home instead of forcing us to go to the general government to establish our claims.

Mr. SNOW. Do you think the appropriation of the waters of the State has already vested a right in the proprietors?

Mr. MURDOCK (Beaver). Well, it has by usage.

Mr. SNOW. We have vested rights now?

Mr. MURDOCK (Beaver). We have vested rights now.

Mr. SNOW. Do you think this declaration then in this section 1 will make that right any stronger?

Mr. MURDOCK (Beaver). Well, it will make it equally as strong—yes, stronger—I think it will.

Mr. SNOW. Suppose the general government should deny our right to thus take from them their rights by a simple declaration, would we not then have to carry it to the federal courts?

Mr. MURDOCK (Beaver). No; I think not.

Mr. SNOW. How would you get your rights then, if you did not?

Mr. MURDOCK (Beaver). I think if they would object to that section, why of course we would have to go to the general government for our rights.

Mr. SNOW. Do you think the simple declaration here "we appropriate water," gives the right to us if we have not got it by use already?

Mr. MURDOCK (Beaver). I apprehend they are reasonable enough, that they will grant to the domain all water of the State.

Mr. SNOW. Would they grant it any more reasonable or any quicker by making this declaration than without it?

Mr. MURDOCK (Beaver). It would certainly draw it to a thorough conclusion in regard to the use of the water.

Mr. SNOW. Do you think the declaration is merely suggestive to the gen-

eral government that we claim the waters of the State?

Mr. MURDOCK (Beaver). I think, in common with other rights that will be ceded to the State, that they would cede the waters.

Mr. MALONEY. Mr. Chairman, if there is any one thing about which the people of Utah are sensitive, and in which they take a vital interest, it is water rights and irrigation. Now, when you come to look at this first section of the majority report, you find the first section is simply a confiscation of water rights in this State. Now, the United States owns lands in this Territory and will in the future State of Utah, but they have donated to us in the Enabling Act something like eleven and a half millions of acres. Of course, when that land was donated, we obtained the right to the water, because when land is conveyed, it carries with it all the water rights that are appurtenant to that land.

Now, the question of the gentleman from Washington to the chairman of this committee seems unanswerable. The idea of our making a declaration in this Constitution that all the still waters, lakes, and running rivers, and streams of this State are the property of the State is simply ridiculous, because it cannot be done. You cannot take away vested rights by constitutional amendment or enactment, or by any act of the Legislature. That has been determined over and over again. So I say that the first section is simply meaningless and it is wholly unnecessary. I say that we cannot take away the vested rights of the people of this Territory who have since 1847 been using this water. I do not care what method you adopt to take it away from them, you cannot do it, and to put something in the Constitution declaring that their water is the water of the State is simply out of the question. Now, Mr. Chairman, this majority report—section 1 does not protect vested

rights at all. You will see in the first part of the section there is a declaration that the State is the owner of all the water. Then, when they come to protect vested rights, as they call it, then simply speak of the use only, not the right or title to the water. So then, I would say that my position is that there ought not to be any legislation here or any constitutional provision upon this water question. Leave it entirely to the people. The idea of our having a board of control, superintendents, division watermasters, stepping in and interfering with the rights that these people have had since 1847, is not to my mind the thing that the people of Utah want. So I say, Mr. Chairman, rather than have this first section, I would prefer the section of the minority report, but I am opposed to the whole business.

Mr. HEYBOURNE. Mr. Chairman and gentlemen, I am not very partial to the provisions of this article that has been reported by the committee, nor am I very partial to the minority report. Yet, if we had to do anything with this question, I think we had better support the minority report, or the amendment offered by the gentleman from Washington. It may have a tendency to appease the unsettled feeling and condition existing throughout the Territory in relation to the possibility of confiscating the water rights of the people. My opinion is, that if we confine this matter to the second section, it would answer all the purposes that would be required. We have at the present time laws in relation to the water interests of the Territory, and I apprehend that the matter is of vital importance and one that will receive due consideration at the hands of the Legislature. We anticipate, of course, in the near future the fact that a great deal of lands would be taken up and a system of irrigation adopted whereby reservoirs and canals would be constructed, and people have gone to work in the rural districts of our Ter-

ritory particularly and acquired as they considered rights to the use of the waters to irrigate their lands, and have got away with the idea that there was an effort being made to confiscate them and to make them more complicated than they were previously. Therefore, in consideration of this I shall support the gentleman's motion from Washington County.

Mr. CORAY. Mr. Chairman, I would say in regard to this report that we have had the advice of the best attorneys in Salt Lake City, and among them Judge Sutherland, and he submitted to us an article that he considered would be good for Utah Territory, and in that article the first section was identical with the first section submitted by the majority report. He declared that the waters of Utah Territory belonged to the United States, and the citizens merely have the right to use that water. They do not own the water. They simply have the right to use it, and if they run any of it to waste why that waste water can be appropriated by somebody else, and the object of the committee was to transfer that right from the United States to the State.

Mr. NEBEKER. Do I understand you that it is the opinion of Judge Sutherland that that declaration does transfer the water to the State from the United States?

Mr. CORAY. Yes, sir; transfers the water from the United States to the State; that is the way I understand it, and there is a question comes up—there is a great deal of the water that rises in Utah Territory and runs out into other states; you will find it so in the northern boundary, a great deal of it runs to Wyoming, and we think there would be an advantage in claiming that water before Wyoming claimed it—or Idaho rather; and I will also say that this is a copy of an article in the Wyoming constitution on this subject, and it has been ratified by the government, and I understand that Wyoming

claims the waters of the state of Wyoming, and we thought that by making this claim that if the government ratified the Constitution, they ratified the claim also.

Mr. ELDREDGE. May I ask the gentleman one question? If by action of the constitutional convention of Wyoming they became entitled to the waters of that State, what about that large portion of the water that rises in Wyoming and comes into Utah?

Mr. CORAY. I suppose it is appropriated if they choose to do so, if it had not been appropriated before.

Mr. ELDREDGE. On the understanding that individuals have acquired a right to the use of that water long before Wyoming became a state?

Mr. CORAY. I understand it so. I do not understand that this section interferes with the rights of individuals. It has never been construed so. The law has been applied in Wyoming for some five years and has never been construed that the title to the water interferes with the right to use the water. The ownership of the water does not impair the right to use the water unless the public interests demand it; then they can deny it.

Mr. SNOW. Mr. Chairman and members of the committee, I think that in relation to the law governing water rights it is somewhat new and as yet undefined. I believe the lawyers of this committee will agree with me when I say that there are no exact settled rules in relation to water except a few fundamental, and that one of those fundamental rules is the right of use for beneficial purposes, or what is known as usufructory right of water. Now, while this is true, in this intermountain region we have come to look upon water as an absolute piece of property. Our Utah statutes define it as personal property that can be transferred by one person to another, and we all recognize its value, as a paramount value to nearly everything else in this mountain

region. The land is worthless without it. To extend a right of eminent domain reaches a man's property that is most precious to him. You may take his land or his house or almost anything that he has and it will not affect him like taking his water rights, because the land is valueless without it. In the county that I come from wherever there is water there is an oasis in the desert, and water is so valuable there that one inch computed according to weir dam measurement is worth two hundred and fifty dollars any minute and you cannot buy it for that. We are very jealous of our water rights and we would dislike very much to see a right of eminent domain in relation to water rights obtain. And while we recognize the principle of beneficial use for water, as the only absolute right, yet, as I said before, we have become used to looking upon it as a piece of personal property, the title to which vests in us absolutely and can be traded or bartered off by one person to another. Now, I hold this, that if as stated by the chairman of this committee and by the gentleman from Rich, that the only purpose of this section 1 is to declare that the State owns these waters, that it is absolutely of no use, for if we own the waters, we own them by right of appropriation and use and from no other. And it does not matter if we make the declaration here if it does not rest upon that use and appropriation, it is of no value, and if it does rest upon appropriation and use it is of value without the declaration, and the idea that this will quiet our title seems to me to be absurd. I think perhaps this is the object of the committee in reporting it, but I think the effect of it is to confiscate the water rights of the Territory and place them under State control, of which local companies, cities, and towns, who have admirable regulations for the use of their water, would be jealous, and would not brook any such interference. If public sentiment ever

comes to the point where they think it is necessary, I think it is much safer to leave that to the Legislature. In relation to the first section that I propose to substitute for it—of the minority report, I will say frankly, that I think this is of no weight and does not increase the value of existing rights, but like the article upon labor that we persisted in putting in the Constitution, I will say in the language of the advocates, that it can do no harm; that seems to be what we are trying to do here; instead of putting something into the Constitution that will do some good, we want to put our fads in that will do no harm. This is one of them, and I am willing to vote for it. It is short; it only consists of two lines.

Mr. FARR. Mr. Chairman, I arise to a point of order. I understand that no person should speak twice on the same subject until all the rest have got through. I am not much acquainted with rules; I have served as a member of the Legislature for twenty-eight years, but we always had the rules in our own heads and never run against anybody. Now, I want to know what the order is and when they all get through I want the privilege of speaking again, if that is the order; if not, I will speak now. This water subject, I want it distinctly understood is one of the most important subjects in my estimation that there is or has been before this body of men. It is something that we get our living from and without which we cannot live. There is no state or territory in the United States, I presume, that has as much to do with the control of water for irrigating purposes as Utah. Wyoming—they have been at it twenty odd years, Colorado, and Idaho, they have got their laws; all their laws are similar; in substance, the same as this, but not like it. The substance is the same and they all provide that the water shall be the property of the state. Well, now, it is very plausible that the government owns the

water—that is that the water is unappropriated. The United States have already ceded by law all the appropriated water. They have said in so many words that those who get the water first have the first right to it. The United States has acknowledged that in their statute. Now, there is a great deal of water that may be appropriated. Now, who is going to take charge of that water? That is the question. Who is going to try to have control of that water, and who is the State? The gentleman has asked who are the State. The people are the State. Now, the people want to provide some way that this water can be controlled without difficulty. What is the best way to control this water? We have got it all under control and that is very wisely—that is very well said. I say all that.

I do not presume there is a man in this room has any more to do with water than I have. That is all very good and well said. The question is, who shall control the water and who shall be arbitrator? We want to get the water business in a settled, tangible manner, so that we can understand how it is. There will be lawsuit after lawsuit if there is not some way settled to control that water. It must be done. Who are the parties? This committee has started out to try to point out some way to find out how the water shall be controlled and who shall control it. This one cannot say it shall be so and so. I am entitled to so much water, and a great many will say "I will be damned if you have any at all." That won't do. We have got to have some laws and some recompense by which that water can be controlled without this strife and this feeling of animosity. But how is it to be done? This committee has tried to point out how it shall be done. That is, that the Legislature shall prescribe means how that shall be done. This provides: (Reads,)

That has all been conceded, and when

the President of the United States signs this Constitution then they have conceded it. It becomes the property of the State as far as that is concerned; but why do we say that it is the property of the State? It belongs to the people of the State. We say that in order that the Legislature shall provide laws to govern this water and control it and there shall not be any question in regard to that, there shall not any man say it is mine. Who is to discharge that duty? We decided that; we wish to make a law how that water shall be distributed and it will be decided when it comes to the court. Here it says: (Reads.) Now, that has been the case all over this Territory. You must not give away this water, and when they read the law of Wyoming and Colorado, why they do not like it. They say the reason why they do not like it is because they do not understand it. They say that it should not be given to the State, that each one must retain his own water, but who is to decide that question? That is the question. Why, they say, we place the control of it in the hands of the people, and who are the people? Why, this Convention are the people to-day; next year the Legislature will be the people; but we want to fix some landmark by which that matter can be settled without having so much litigation. I think this water question is going to be a source of a great deal of litigation, and a great deal of trouble, if we do not fix it on some firm basis here. This matter has all been talked over by the soundest lawyers in the nation, Colorado, Wyoming. It has been submitted to some of the soundest lawyers in the nation; and they say that that provision of the law is sound. There is not a man here that pretends to say to the contrary, only he gets up and makes an assertion. He does not use any logic or any reason whatever. Somebody should take charge of this water. We must have some sort of ar-

bitration, that the rights of water can be disposed of satisfactorily, and for this reason, why we have brought this forward. Now, if you can give any better reason we are willing to hear it, but I do not want them to lose sight that we must prescribe some way. We want a board by which water can be—the right can be put on record somewhere. That there can be a final decision without having so much litigation, and you will find that we have got to have a board or somebody in charge of this water.

Mr. HAMMOND. Mr. Chairman, it is true as has been said a number of times that this is a very important subject that we are discussing. Much latitude has been given. Now, I do not want to say very much. I have not got wind to do it. That is all that shuts me off is the lack of wind, or else I would wear you out. I have been a user of irrigating water ever since this Territory was formed, in fact before it had a name. My friend from Weber, Honorable Mr. Farr, claims he is the oldest citizen; I do not know but he may be. If so, it is only a few days or a few months in the use of water and I am satisfied and have been to leave this matter entirely in the hands of our Legislature, and for that reason supported the proposition to strike out. Now, I have had some experience also over in Colorado, our neighbor state. And a grand old state she is too, but when she came to go into this irrigating business and copying after Utah she made a plumb muddle of it. Why? Why, in this provision here a state board—a high toned engineer living where? At Denver. and his deputies located around in every county. That reaches where I own property there, the southwestern corner of Colorado, several hundred acres of land there. I supposed when I went over there that water, like it was in Utah, was a piece of personal property. We could sell it, we could trade it, we could swap it, we could loan it to our

neighbor, but sir, when I got over there and bought out a half interest in a large irrigating ditch I supposed I had some title to the water, but it turned out when we came to adjudicate and litigate our water rights, that my farm, lying near the tail end of the ditch—that prior proprietors of the water before it reached my spot took my priority rights away from me and instead of being one, as I supposed, on the ditch, it turned out I was number seventeen, when they came to get the water rights numbered off. Well, now, it has been in constant litigation from that time. They claim the water is the state's. The state says, when you have done with the water—someone proposed here that the surplus could be used. Now, sir, not in that country at all; if it goes back into the natural stream again, as soon as it is done by the user, and this is some of my experience in the water right. Now, I want in my heart to trust it to our Legislature. I believe a good portion of them will be people of Utah, that have had experience in this matter, and we need not worry ourselves over it.

Mr. BARNES. Mr. Chairman, I do not favor the adoption of this section under consideration for various reasons. In the neighborhood where I hail from, water rights have acquired a commercial value. They have been bought and sold, as is other property, and a right to use it is transferred from one individual to another. I think that it would be doing a very great injury to the people of my neighborhood to say that the rights which they believe they are entitled to—many of them by virtue of paying out their money for it, shall become the property of the State.

Mr. NEBEKER. Do you understand that if this Convention should declare that the water of the State should become the property of the State that that means an interference with vested rights?

Mr. BARNES. I am afraid so. That is the point with me. I am afraid so.

Mr. NEBEKER. We would have to climb right over the Constitution of the United States, if it were a fact.

Mr. BARNES. As to that I do not know. We get along very nicely to-day in the use of our water. Our streams are small; we have no difficulty with anybody, and we claim the water as it comes from the mountain that flows in the various creeks. We claim it by right of usage, by right of appropriation. As I said before, we buy it, sell it, and transfer it from one to another. Now, to come up and say that we no longer have that right and that the water belongs to the State, is something more than I can do, and then I cannot vote for the adoption of the article under consideration. I do not favor the entire article. I think the entire article is wrong, and that the whole matter should be left to the Legislature.

Mr. MURDOCK (Beaver). Mr. Chairman, as it has been often remarked here this afternoon, this is a very important question. And while we may think it so difficult that we don't want to take hold of it here, in what better condition would the Legislature be to take hold of this matter? Now, there seems to be a head to all things, and there should be in this great State. This interest is perhaps one of the most important that we have to meet, and if this body of experienced men that are here upon this floor are not able to take hold of this matter and dispose of it in a proper way, why I cannot conceive that the Legislature that are no greater experienced men than this body is can take hold of it and do that that would be satisfactory to the people. Now, I think that the water should be disposed of in some way.

Now, continually waters are running from one state to another and if we acquire the right to the use of the water that is running into this State from

other states, why that right would be established if it was conceded to by the general government. Now, we want the experience of other individuals; if it be of any strength to us, or of any use to us, we should use the experience of other parts of the country. While I am willing to admit that Utah is in the lead in the experience of water, and I may be as tenacious upon my rights as any man possibly can be, I have been using water in this Territory for forty-five years myself, and I am tenacious on my own rights, and when my rights are well guarded, I say that every man's right is guarded. I say that provides that no priority right shall be interfered with. Of course if that be so, then it guarantees to every man that holds a water right. It is confirmed, but it simply is placing the water that the United States may obtain and hold at the present time—it converts it, it confers it upon the new State, and then the new State will dispose of it through its Legislatures, which this section provides. Now, we have the experience that has already transpired in the other adjoining territories, and they seem to work very excellently. Now, here is a law that I will read, which will be a part of what I have to say. It is from Governor Richards, of Wyoming. It seems that the governor of the Territory has applied to him for his opinion in regard to the water question:

To His Excellency, the Governor of Utah, Salt Lake City:

Dear Sir:—I am in receipt of your esteemed favor of April 9, in regard to the state control of water. I can give you no better information upon the question than that contained in the report of the state engineer and my message to the legislature, copies of which I mail to you to-day. We are very well satisfied with the working of our water laws, including the constitutional provision relating thereto, and no changes that could improve it occur to me at the present time.

Very respectfully,

WILLIAM A. RICHARDS,
Governor, Wyoming.

Now, that is his experience and here is the Wyoming law of the water, and he reports it as being excellent. I have also here a report of the engineer. (Reads.) Now, we don't want to treat this, gentlemen, lightly. I think that we want to shift a great labor and a great burden off of ourselves and put it on to somebody else that is not a bit more capable of disposing of this matter than we are. Now, there is not a feature in the bill that has been presented to the committee that takes away priority rights from them, but it is strictly guarded—strictly guarded. And I say emphatically that everything should have a head to it, and now you leave this to go on in the confused way—some parts may not be disturbed with this confusion, but I know many parts are confused, and men who are original owners are entirely deprived of their water rights. For what reason? Because there has not been a proper control made of the waters, and it is getting worse. We leave this matter for a few years more and the complication is increased. Now, we want to adjust this matter so as to put this water to the best possible use to the general whole. I do not wish to monopolize while I may have a priority. Men think that they own the water that they use. You might just as well claim that air that goes through the air and that you use as to say that you own the water. There is not a man that owns the water. He only owns the use of it where it goes from one to the other and passes by us as the air does, and there is not a man—I am strong on that point, that there is not a man that owns the water; he owns the right and perhaps through the custom that has been established here, he can transfer the right from himself to his neighbor.

Mr. ELDRIDGE. Mr. Chairman, I am aware that there is no question that will come before this body that is surrounded with so much importance as the one we have under consideration,

and I am of the opinion that we can say nothing in this Constitution which will give any increased right to the State of Utah to the water that it would not have if it did not even mention it in the Constitution, nor should we say anything here that would detract from rights that have been acquired by the use of water. One advantage that the Legislature would have in dealing with this question over this Convention would be this, that if the Legislature should make an error in providing for the mode in which the water should be controlled, they could correct that error far more easily and more readily than what this Convention could have it corrected, should they make an error in the Constitution. Then there are different classes of rights we acquire to water; there are certain rights we acquire which only constitute a right to the use of the water, as for illustration, there may be a mill situated upon a stream and that is permitted to divert the water from its channel, carry it down and over its wheel and pass it back into the stream, and thus not infringe upon the rights of any person that may have acquired a right to the use of the water or even a right to the absorption of the water below them. Now, that is one class of right. Another class of right would be a farmer. He takes a stream of water upon his land and he exhausts that stream. There is not one particle of it that passes off from his farm to go on to afford its use for somebody else, hence, there are two different modes in which the rights to water attach. Then, should we appoint a board and that board should prove unsatisfactory to the people of the Territory, it would then become very objectionable and be very difficult to change, but if we leave the appointing of a board or even the creating of a board to the Legislature, it is then in shape that it can be properly handled. There are a great many questions will arise in regard to the

water. For instance, you can take one class of land and it will require perhaps only one-quarter or one-half as much water to produce a crop as what some other class of land will and it would be impossible to say to a person that so many miner's inches or feet, as the case may be, of water that you can have to this twenty-acre or that forty-acre tract, and apply that rule to some other twenty-acre or forty-acre tract. All these obstacles will come up and present themselves to a board that undertakes to have anything to do with the water question, and therefore, as one, I am fully in favor of leaving the question to the Legislature to handle, and if we put anything in this Constitution, it would simply be the two lines that were presented by the minority report that all existing rights to the use of any of the waters of this State for any useful purpose shall be recognized and confirmed. I agree with the gentleman from Washington County upon that proposition, that it will not add any increased right to a person that has acquired a right either to the water or to the use of the water. There are some instances where they have acquired a right only to the use of the water, and in other instances they have acquired a right to the water and they use it absolutely, and therefore I think that we should leave this question unto the people that would be able to adjust it.

Mr. CORAY. Mr. Chairman, I would like to say two or three words. I will say that we wrestled with this question—that is, the committee did, three or four weeks and there was only one man that held out and that was Mr. Larsen, from Sanpete, and I notice in the substitute that he offers here to-day that he has come right around to our way of thinking. I will just read it for your benefit. It is very short. (Reads.)

Mr. LARSEN. I did not offer it.

The motion of Mr. Snow was agreed to.

Section 2 was read.

Mr. VARIAN. Mr. Chairman, I move to strike out the entire section. Now, Mr. Chairman, I will consider this section in three subdivisions. First, priority of appropriation for beneficial uses shall give the better right. In a certain particular and to a certain extent, that is the existing law. There are, however, rights growing out of riparian ownership which are equal to the rights given by the law existing as to prior appropriation. A declaration of this kind certainly could not interfere with vested rights, and if it could I should not vote for it, and I do not believe this Convention is willing to vote for it.

The second clause, that no appropriation shall be denied except when such denial is demanded by public interest, that looks towards confiscation. A man has a right by prior appropriation. It is just as much his property as if he had gained it in any other way. I do not think we ought to attempt to put any such confiscating clause as that in. The third clause, that the right of eminent domain shall extend to land and water rights, is entirely unnecessary. We had better leave that law of eminent domain just where it is. It is determined by well known principles. Courts are familiar with it. Legislatures are familiar with it. It is simply declaratory of what exists anyhow.

The motion was agreed to.

Section 3 was read.

Mr. THORESON. Mr. Chairman, I move we strike out section 3.

Mr. JOLLEY. Mr. Chairman, I move that we substitute section 2 of the minority report for the section.

Mr. RICHARDS. Mr. Chairman, I am opposed to the substitution. And I am in favor of the motion to strike out, because the Legislature would have all the power that they need in the premises without any such declaration. I think it is entirely unnecessary, and the section ought to be stricken out, in my judgment.

Mr. THORESON. Mr. Chairman, I think this section should be divided and these two sections treated upon different terms. I move to strike out section 3 of the majority report, which relates to the appointment of a State board and a State engineer, and I think the question should be divided and then afterwards vote on the substitute or the section of the minority report.

The motion to strike out was agreed to.

Section 4 was read.

Mr. BARNES. Mr. Chairman, I move that section 4 be stricken out.

The motion was agreed to.

Mr. JOLLEY. Mr. Chairman, I now move you that we insert section 2 of the minority report. As was stated by the gentleman from Salt Lake, this could be left to the Legislature. I agree with him that it could be, but there is an unrest in the minds of the people that I would like to see settled by this body and upon this floor, and I think that this section should be voted for. It will do no harm and it will satisfy them and give them something to rely upon.

Mr. HART. Mr. Chairman, if we are going to leave this whole matter to the Legislature, I think that we should do so. The word "shall" is in there, and this would require the Legislature to have a board of control. Inasmuch as we have decided not to pass upon the question here and leave the matter to the Legislature, I am in favor of leaving the whole thing to them, not directing that they shall do certain things.

Mr. MALONEY. Mr. Chairman, Mr. Jolley speaks of the unrest in the minds of the people. It strikes me that section one of the minority report, which has already been adopted, will set that at rest. I agree with the gentleman from Salt Lake that this is wholly unnecessary. The Legislature may provide for all those things. I hope the motion will not carry, that section 2 will not be adopted.

The motion of Mr. Jolley was rejected.

Mr. CREER. Mr. Chairman, I move to strike out section 1, as the article now stands.

Mr. RICHARDS. Mr. Chairman, I am opposed to putting anything into this Constitution that does no good, and the argument simply that it will do no harm is not persuasive to my mind. Now, if any gentleman in this committee can tell me of any good that can result from placing that article in this section in the Constitution—

Mr. JOLLEY. Mr. Chairman, I call the gentleman to order. We have just passed on section 1 and took a vote on it.

The point of order was sustained, and the motion of Mr. Creer was ruled out of order.

Mr. HART. Mr. Chairman, I move to reconsider the vote whereby we adopted that section.

Mr. ELDREDGE. The gentleman that moved to reconsider—did he vote in the affirmative?

Mr. HART. I do not know whether I was present when that was voted on or not.

Mr. JOLLEY. Then, Mr. Chairman, I object.

Mr. HART. That was introduced at the time section 1 of the original section was stricken out, was it?

The CHAIRMAN. Yes.

Mr. HART. I voted in the affirmative.

Mr. IVINS. Mr. Chairman, I have not participated in the debate thus far upon this article. Now, if the question of reconsideration is before us, I do want to say just a word. I think that that part of this section which was adopted is very proper and ought to stand, and that it ought not to be reconsidered. It simply confirms all existing water rights and provides that from this time on there shall be no law passed which might condemn water and extend this right of eminent domain over it by which people may be deprived of exist-

ing rights. I would like to see that remain anyhow.

Mr. HART. Mr. Chairman, I will withdraw my motion by the consent of the house and let the matter go on to the third reading.

The CHAIRMAN. The question now is on the article of forestry.

The committee proceeded to the consideration of the article of forestry.

Mr. CHIDESTER. Mr. Chairman, I move that when we do arise, we report and recommend that this article be adopted.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled education.

Sections 1 and 2 were read.

Mr. MAESER. Mr. Chairman, I move that on line 5, in section 2, the words "and high" be stricken out so that it reads, "the common schools shall be free."

The reason for my making this amendment is the same that I stated before; the status of common and high schools is a different one. Common schools are mandatory. They extend the right to every child of our people to be educated, and every child has a right to demand that kind of education that we shall designate by the term common school education, but high schools are a privilege for any one of our youth that desire to avail themselves of it, and now we are entering upon a statehood with increased taxation and we have to see that our common schools are provided for first in educational matters; that there is nothing done that in any way may infringe upon the full development of our common schools.

Thus far experience has demonstrated that in many parts of our Territory our common schools have not been able to run through all forty weeks which is considered the regular full school year. Very few school districts have been able to reach that under the present condition of affairs, and in some counties

schools have not been able to run longer than three months in the year. We all are willing to acknowledge that three months' schooling cannot furnish the child a common school education. It must be unsatisfactory. We must try to build up the common school system of ours so that all the children in our country districts have the privilege of a thorough good education—a solid foundation—there is a tendency, too much so, of over education. We are not educating for professions alone. We are educating our people, our farmers, our mechanics. We have to provide for those, but a tendency has been somewhat created that wherever some smart little children are found in the schools, they are pushed on, passed on—a kind of hot-house education has been developed. As a natural result of the condition of affairs, teachers are engaged for the year, or in some instances only for a term or a number of terms. They want to show off how much they can do in that short time, and press each force forward, and then it is as if the common schools only were arranged and organized that they may feed high schools and so on. Our common school system is a self-existing one. It is there for its own sake, it is not there for the sake of feeding high schools. It is a system in itself. Three-fourths of our school population get their education in our common schools and close up with that; then they depend upon mutual improvement associations and Christian endeavorers, and Christian societies, and so on, for further information of a general nature, but it is the common school education which I would like to have secured. I have been accused to my face that I was opposed to high schools, but I wish to say that I am not. I am in favor of high schools. I desire as many high schools to be established in Utah as we possibly can do, and as the means and the communities will allow. I am most anxious to see these, but it must not be

done at the interest of our common schools. I would like to see them well established first—our country districts be brought in such a condition that they run their schools all the year around. That means forty weeks, which is the proper school year, and teachers that can stay there and not travel around the country for one term after another, but be able to stay and make their home there, and establish a character in the community and stamp their impress—their character upon the minds of the rising generation. It is not only knowledge, it is the building and cultivation of the character of our children that we want to have established. Therefore, I desire that these words “and high” be left out and provision be made by this Convention for the high schools. Someone else will take up the subject of high schools, I trust. I here only advocate the interests of our common schools and the high possibility.

Mr. PIERCE. Mr. Chairman, I hope the motion will not prevail. It seems to me that the purpose of this article is to define the public school system, and that is more essential than, it is to specify exactly how the various branches of the school district shall be supported. We first outline a general plan. Now, if the Convention will turn to the latter part of section 3, I think they will see that Professor Maeser's argument is answered. That is a provision made so that the State school tax and the State school fund shall be used for the benefit of the common schools. That is as far as we have gone and that is all that we have provided. We have provided that all the fund that we raise shall be devoted for the support of the district school. Now, it seems to me that whenever a boy or a girl in a high school reaches the age of fourteen years and shows a special aptitude in studies, that the State owes as a duty to see that that boy or girl is permitted to enjoy education beyond

that, and if it is not so, the result will be to thwart the ambition and crowd them down, and I believe we should leave this matter in there, and leave it so that the Legislature can provide for the support of the high school in such way as they shall see fit to do. Now, why should not we do this? If it is not going to sacrifice the interests of the common schools in any respect whatever? And this bill is so framed that the interests of the common schools will not be sacrificed in any way, because the State school fund and such other additional taxation as the State may provide for shall be devoted to the district schools, and let it go there. Leave the common schools—if the Legislature provides a law for establishing them, leave them free.

Mr. SNOW. You refer to the saving clause, which provides that the school fund, with other means that the Legislature may provide, shall be distributed to the several school districts, according to the residents therein between the ages of six and twenty-one years. Now, the question I want to ask you is this, if the words "and high" are stricken out, will not this saving clause allow any school district which has sufficient funds to establish a high school with what surplus they may have that goes to these residents between six and twenty-one?

Mr. PIERCE. I am not certain but what you are right in regard to that.

Mr. SNOW. I think I am. Another thing, I think if you will leave "and high" there, that the free part of the school will be mandatory.

Mr. PIERCE. Well, I think it ought to be mandatory. That is my view of it.

Mr. SNOW. Well, if it is mandatory, you will have to provide taxes to make it so.

Mr. PIERCE. Exactly.

Mr. SNOW. The idea is this, we want to go according to our means, and by all means have the common school free.

Mr. PIERCE. My own idea is that the common school by all means should be free at all times, and that we should put that down as the foundation stone. Then, above that, that all high schools, at all times supported or provided for by the Legislature, should be free. Let the Legislature define it, that high schools can be established and become free even if they are supported by local taxation.

Mr. SNOW. Then it is clear to your mind that if the words are stricken out it will not prevent the establishment of free high schools?

Mr. PIERCE. I do not know; it is not entirely clear. You may be right upon that proposition.

Mr. PETERS. Mr. Chairman, I make a motion to strike out the entire section.

The question being taken on the motion of Mr. Maeser, the committee divided and by a vote of 47 ayes to 34 noes, the motion was agreed to.

Mr. VARIAN. Mr. Chairman, I want to offer an amendment, to insert after line 7, in section 2, "provided in all cities of the first and second class high schools may be maintained as a part of the free school system."

Now, Mr. Chairman, this is the same ground which we went over two or three weeks ago. For some reason or other there seems to be an antipathy to high schools in the minds of gentlemen here in this Convention. I confess I do not understand myself why it exists. To hear a gentleman at the head of a great private school—an ecclesiastical school, numbering eight or nine hundred students, making an attack of this kind upon the high schools is something that I cannot understand.

Mr. RICHARDS. As you understand this section 2, would not the Legislature have the power to provide for high schools, as a part of the common school system—free schools? I call your attention particularly to the last two lines, where it says that the other de-

partments of the school system shall be supported as provided by law.

Mr. VARIAN. Yes, sir; they might have that power. I doubt whether they would have the power to make them free, but what is the use of beating this thing around the bush in this way? If the intention is to let us have our high schools as we have them now, why not say so? If the intention is to deprive Salt Lake City of its high school, let us understand it. This proviso does not interfere now with you gentlemen from the outside. You have got the section as you want it, striking out the provision making high schools free and doing away with all competition that they might make to your other schools. That I apprehend is behind all this.

Mr. CREER. I desire to ask the gentleman if the provisions here in lines 6 and 7 would not be sufficient and that would cover not only cities of the first and second class, but cities of the third class?

Mr. VARIAN. No; that is the question asked of my colleague from Salt Lake City, but the object of this proviso—there is nothing concealed in it, so far as I am concerned. I want it understood that I want the high school of Salt Lake City maintained free. I presume the gentlemen from Ogden want the same as to their schools. Now, as I took occasion to say upon a former occasion, we have builded up a great school system here; we have a large number of first class school houses; we have incurred a large indebtedness; our people are willing to stand it; we may have to incur additional indebtedness. We shall, in the near future, want a high school building. Our school is increasing by hundreds every year. It is one of the features of our school system; it is doing as much as anything possibly can to bring into line all the children in this city, and they are all looking forward to that high school, one and all.

Now, the simple statement, it seems to

me, ought to be sufficient to give us this proviso. The school here and the school in Ogden are now maintained free. This is a permissive proviso, it does not say the Legislature shall do so; it says that the high schools of cities of the first and second class may be maintained free; nothing that I could say, gentlemen, would add to the force of the argument. Time is too precious to go over the ground of argument we went over two or three weeks ago. I simply ask you what you have got to do with it? Why should anybody object to this proviso being carried?

Mr. IVINS. Mr. Chairman, I believe that the members of this committee are laboring under a misapprehension as to the present school system in this Territory. We have no free school system here, such as I understand this proviso of the Constitution that we now have under consideration will create. The Legislature appropriates a certain amount of money to assist the schools of this Territory, and then it provides laws by which the counties and the school districts may, if they wish, make those schools free. But there is no free school system. If a county does not wish to vote a tax for schools, the schools in that county are not free today. Now, as I understand this provision that we are about to place in the Constitution, it requires that all common schools in this Territory shall be made free by general taxation, and that is just exactly what I want, and then if there are to be high schools maintained free, let it be by local taxation in the districts, cities, or precincts, where those high schools are located. And if the gentleman will amend his amendment so that it will read that high schools may be made free by local taxation, I should not object for a moment, but I believe that under that provision high schools in Salt Lake City could be maintained by general taxation of all the people in this Territory, and that I do not think is right.

Mr. VARIAN. Will the gentleman permit me to ask him two questions? Does he not know that the schools in Salt Lake City are free, all of them?

Mr. IVINS. Yes, but they are made free by local taxation.

Mr. VARIAN. And second, what difference does it make to you or to the school fund whether that is in or out of the proviso? We do not get any more money from the State than we would have if the school was not free. In other words, we distribute that fund as we choose, and then if we require anything more it must of necessity be by local taxation.

Mr. IVINS. I wish to impress the gentleman that I do not object at all to that condition being continued, but I want to try to impress the members of this committee with the fact that under section 2, we are creating a free school system, and it will be supported by general taxation, so far as the common schools are concerned, and that there will be but one school fund and that will be the territorial school fund. Now, if we want to establish higher schools, let it be done by local taxation, after the pupils of this district have received their proportion of the general fund who are between the ages that are designated here as the school ages. I believe that that amendment, if it is adopted now, would authorize the assessment of taxes on property in Washington County to help maintain the high schools in Salt Lake City, and I do not think that that is right. We are willing to bear our proportion of maintaining common schools in Salt Lake County and in Cache County and in all other counties, and wherever high schools are wanted, let them be maintained by local taxation, just as they are now.

Mr. SMITH. Mr. Chairman, it seems to me that Mr. Ivans is laboring under a misapprehension in regard to the free school system in this Territory. I am not certain in regard to that matter,

but the impression in my mind is that the schools in the Territory are at present supported by taxation. Suppose that the children of this city, as an example, were taken of the ages named here in this proposition and appropriations were made for the public school system, and the city itself established a high school in connection therewith—children only of the ages named who would be permitted to attend there, and we would only get our proportion of the money as any other section would, if they saw fit to do the same. I trust that this proposition of Mr. Varian's will carry. I am decidedly in favor of it, because it is a matter of justice and right to the people to be able to use their money in that way.

Mr. RICHARDS. Mr. Chairman, I am decidedly in favor of Salt Lake City and Ogden and any other city in the Territory that is able to support a high school as a part of the common school and free school system, to have that right, and as I understand it, they would have the right under this section, as it now stands. That is the difference between myself and my colleague from Salt Lake City. He seems in his argument to imply that if this proviso is not adopted, the Legislature—that we would not have the authority to continue these high schools. Now, I do not understand it that way at all, and the reason that I asked the question of the gentleman was not to interrupt him, but to try to get some light on the subject, but I did not succeed in getting the light that I usually get from interrogations from that source.

Mr. VARIAN. Will the gentleman pardon me if I treated him abruptly; I did not mean to. I will endeavor to answer any question.

Mr. RICHARDS. I did not understand that the gentleman did intend to treat me abruptly, but I did not get any answer to my interrogation.

Mr. VARIAN. If you will allow me, I will try to answer.

Mr. RICHARDS. I have no question to ask now. I desire to say something myself. Now, if it is true that this section 2 would prohibit Salt Lake City or Ogden City, or any other city, from maintaining a free school system, or maintaining high schools as a part of the free school system, and it is necessary to have this proviso in order to make that clear, I am for the proviso, but I want to know first that it is necessary. Now, what does this section say. The first section says, "The Legislature shall provide for the establishment and maintenance of a uniform system of public schools," etc. By section 2, high schools are included in the public school system. "The common schools shall be free." Now, if it stopped there, there might be a question about the power of the Legislature to make high schools free, because, under a familiar maxim of law, that an expression of one thing excludes other things, it might be doubtful—in fact, I should say that they would not have that power, but this section goes on and makes it clear by saying, "the other departments of the school system shall be supported as provided by law."

Now, the Legislature has a right to enact laws providing for the establishment of high schools throughout the Territory, and the maintenance of high schools throughout the Territory. Are we to argue that the Legislature will not do this? Are we to assume that the next Legislature will provide that high schools that are now in existence in this city and in other cities of this Territory shall be discontinued? I do not think we ought to indulge in any such presumption as that. If we provide that in cities of the first and second class high schools may be retained as a part of the school system, then I say that it is objectionable, because in line with the very maxim that I have quoted, the expression of one may exclude others. Then it would be impossible for the Legislature to pro-

vide for high schools elsewhere, except in first and second class cities. It might be that high schools might be desired in other places besides in the first and second class cities. Now, I want it distinctly understood, Mr. Chairman and gentlemen of the committee, that I want this thing made as clear as any member of this committee. I desire the right retained for Salt Lake City and for Ogden, and for every other city that now has it, but I desire also that the same right and privilege may be extended to every other city, and not only to every other city, but to every county in this Territory, if the time should come that it should be considered wise and expedient that that provision should be made. And so as I understand it, I cannot favor the amendment. If an amendment is necessary it can be drawn in such a way that it will not and cannot possibly operate as a restriction; then I should vote for it, but as I am now informed, I cannot vote for the amendment, because I think that instead of extending any privilege in this regard, that it is restrictive in its character.

Mr. CREER. Mr. Chairman, I do not wish to repeat over the argument of the gentleman from Salt Lake, Mr. Richards, but that is the way the amendment occurred to my mind, that using the expression of cities of the first and second class, it would exclude others, because the Legislature would be directed by that provision. Now, I think it would be perfectly right and proper—in fact, necessary that high schools may be established in other cities, besides those of the first and second class. We have cities approaching in numbers cities of the first and second class and we have high schools there. I was opposed, not to the principle of sustaining high schools free, but I was opposed to the amendment, because I believed it would be too narrow; it was circumscribed so that other cities could not be benefitted by that,

Mr. CHIDESTER. Mr. Chairman, as I understand the amendment, I could not support it, but if it goes on something like this, I could support it, "the common schools shall be free and the high schools of first and second class cities may be free by local taxation," then I think I could support it.

As I understood the argument on this question when it was in the Convention before, that was the contention, that they wished to have high schools and pay for them themselves. Now, I do not object to that, but I do object to making these high schools free and having them a part of the free school system.

Mr. EVANS (Utah). It seems to me, Mr. Chairman and gentlemen of the committee, that this matter is certainly strong enough. As I view it, I believe that if it is left just as it is now, it is within the power of the Legislature not only to establish high schools, but I go further, and I believe that the Legislature could make a law whereby high schools could be maintained by territorial taxation. I believe that they could provide by law that kindergarten schools should be made free from the same source. I believe that they could provide that the university could be made free from the taxes of the people throughout this Territory, but I am willing to trust that part to the Legislature. If the time shall ever come that they believe it shall be a just system that high schools should be established in this Territory and that the finances of the Territory are of such a nature that they could be established by general taxation, in addition to the maintenance of the common schools, I am willing to leave it to the Legislature, or if peradventure in the history of the State it should be found that we were able by the resources that accrue to the university, and those that accrue to the common schools—that by making a reasonable tax in addition to that, that very system in this Territory could be

maintained free, I would not object to it, and I believe that is exactly the condition of this section as now left. Therefore, I am opposed to the amendment. I think it is strong enough as it is; that it will cover every situation that will arise and it may go to the extent of making every school in this Territory free by any way that they may provide, either by local taxation or general taxation.

Mr. PIERCE. Mr. Chairman, if this section is left as it is, we are liable to meet or may meet with this condition of affairs. I do not say we will, but we may be. The very next Legislature that we may have may say that the pupils of the high school in Salt Lake City shall be charged tuition. That is the trouble. That is what the gentleman from Salt Lake City desires to get over. His amendment is that the high school shall be a part of the free public school system, and it seems to me that it is eminently proper that this amendment should go into the Constitution, so that in cities of the first and second class it would never be possible for the Legislature to charge tuition.

Mr. EVANS (Utah). Are you not willing to trust to the honesty of the Legislature—have you not got sufficient confidence in them to believe that if any district or any locality are willing to be taxed for the purpose of maintaining a high school, that that Legislature will provide a law whereby they may do it?

Mr. PIERCE. I do not want to insert that question when this Convention strikes the words high schools out of the free school system.

Mr. MORRIS. Mr. Chairman, I am in favor of Mr. Varian's amendment, for a free high school. I cannot see why outside districts need to interfere whatever as long as we are willing to sustain and support our own high schools. I favor a free high school for the benefit of hundreds of widows and children that are just as bright as those that have an abundance, and to say that the

high school is to be paid to go in, they are deprived for want of means, and for that reason I favor free high schools, as long as we are willing to sustain them ourselves, and I rather think it comes with poor grace for those in the outside districts to think that we charge them or that they would be taxed to support our high schools, when we in Salt Lake County are supporting all of the public schools, to the amount of about eighty per cent.

Mr. VARIAN. Mr. Chairman, the argument of my friend from Salt Lake and from Utah County is a little disingenuous, as to the construction of this section. First, we are told that if this proviso will be adopted they fear that the Legislature would be prohibited from establishing high schools. They overlook the fact that you have already declared that high schools shall be a part of the public school system. They overlook the fact, or at least ignore it, that you have just stricken out the clause which would authorize the Legislature to make the high schools free anywhere. Whether the proviso is adopted or not, as long as this Constitution shall stand in this way, every lawyer here must know that the Legislature would be prohibited at any time or under any circumstances from making the high schools free. Now, it is in that way that we want this proviso adopted.

Mr. RICHARDS. Do I understand you to say that the striking out of the words "high school" as it stands now with common schools free, that the Legislature would be prohibited from making any other schools free?

Mr. VARIAN. Upon the principle of construction that Mr. Richards announced approvingly a few minutes ago, I should say yes. The Constitutional Convention was dealing with that question as to what schools shall be free. It has declared that the common schools shall be free. By implication, none others are to be free.

Mr. RICHARDS. That would be

unquestionably true, if it were not for the section that follows. I ask you what this means, "the other departments of the school system shall be supported as provided by law?" That is as I understand it, the other departments except the common schools.

Mr. VARIAN. I understand that; they shall be supported not as free schools, but supported by taxation in such a way as may be provided by law. It is subject to that interpretation, but passing that let us see what effect this clause has upon your high schools elsewhere. It simply provides that high schools in cities of the first and second class may be maintained free, as a part of the free public school system. How can we get any money from the people outside, other than the money that we would get whether we have a high school or do not? Your Legislature will create a levy for a school fund, it will be so many mills on the hundred dollars; it will be distributed in the different counties and districts of the State, according to the school population, so that it is not the number nor the character of schools that will determine that, but it is the number of people within school age, who are authorized to draw the school money. We will illustrate by saying supposing we get twenty-five thousand dollars a year or fifty thousand dollars a year for a school fund, how can it concern you gentlemen, whether we distribute that money among the common schools and the high schools, or give it to the common schools alone? The result is the same, when we have exhausted it, we are bound by the levy, we can get no more money from the State treasury. We will do as we are doing to-day, levy a city tax, which in large degree we rely upon to support this system of schools that we have here. It is not true—it is a mistaken idea, if gentlemen will just look into it, they will see that it will not add to your burdens one single cent. It is simply providing that we may still

maintain our high school here in Salt Lake and our high school in Ogden, as a part of the public school system. It is torturing language. It is a misconstruction and misapplication of the meaning of words to assume any such construction as is put upon it by the gentleman. We do not wish to interfere with that. If any gentleman here is going to vote against this proviso because "supported by local taxation" is not there, why don't he offer it as an amendment and help me to perfect this, if he is in line, and not endeavor to kill it absolutely? If there is that question in it, offer the amendment and let the committee vote upon it, if they want to perfect it in that way, but I trust that you will not vote down this proviso under the circumstances.

Mr. RICHARDS. To make this matter clear and beyond doubt, will you accept this amendment to that amendment:

Provided that in cities of the first and second class and such others as may be provided by the Legislature, high schools may be retained as part of the free school system.

Mr. VARIAN. Certainly. I will be very glad to.

Mr. IVINS. If Mr. Varian will allow me, I have his original motion here and I want to put three words in it that will satisfy me. I want to move this as an amendment. Your motion is, "provided in all cities of the first and second class high schools may be maintained as part of the free school system." I have added, "provided, in all cities of the first and second class high schools may be maintained by local taxation as part of the free school system." I move this as an amendment to the gentleman's motion.

Mr. THORESON. Mr. Chairman, I offer as a substitute for the section and the amendment:

Provided that high schools may be maintained free by any county, city, or district, by local taxation.

Mr. CHIDESTER. Mr. Chairman, I

would like to offer an amendment to make it conform to the suggestion I made awhile ago, by adding three words, "by local taxation."

Mr. VARIAN. Mr. Chairman, if that can be added so that if a necessity should exist for it, there would be no objection to it, but to confine it entirely to local taxation might preclude the use of the moneys that the city is entitled to or any part of them, although it might have more than enough for the common schools, going to the high schools. I do not think the gentleman means that, however.

Mr. IVINS. Would not the latter part of section 3 protect every city in its right to its proportion of the school money?

Mr. VARIAN. Yes, it would protect the city in the right to the proportion of the school money, but to make a limitation as to what they should do with it is what I am complaining of.

Mr. IVINS. I do not understand that you can provide how the trustees shall use that money after it comes into their hands.

Mr. VARIAN. Your suggestion is that we must confine this high school system to local taxation. Leave out "local taxation," or if you put it in, put in also, "if it shall be necessary," and give us the benefit of what we do get from the State.

Mr. IVINS. We want you to have that.

Mr. THORESON. Mr. Chairman, my idea of the substitute is simply this, that we have now provided in the section for the common schools. We expect to provide money sufficient and sufficient only for the common schools of the State throughout. Now, more than that, my substitute here provides that any city or county or district may have a high school by a local taxation over and above that of the common school system, and the money appropriated by the State for common school purposes. Now, it would be confined

not merely to cities of the first and second class. I object to that, because I happen to live in a city of the third class, and we want a high school, and I believe the people in the cities of the third class are willing to be taxed, but I do not believe it would be proper for the State to appropriate money to that high school, taking it away from the common school system. I believe it should be provided for throughout the State at the expense of the State, and no more money should be paid than is necessary for those schools, but over and above local taxation, should provide for the high schools.

Mr. ROBERTS. Mr. Chairman, I am not in favor of the substitute offered by the gentleman from Cache. I can conceive, sir, that in compact settlements, and large cities, such, for instance, as Salt Lake, that when that city shall draw the amount of school fund that is due to the city by reason of its school population, that they would have, perhaps, an excess of money over and above what is necessary to run their common schools, and in that event, for one, I would be perfectly willing to see such an arrangement made that that surplus means might be used in aid of running their high schools free. I think that the gentleman from Garfield, if he would accept an addition of one or two words to his amendment—to Mr. Varian's amendment, would cover the entire case. I ask the gentleman to state his amendment to the amendment.

The CHAIRMAN. The amendment is not before the house.

Mr. ROBERTS. No; I understand it is not, but I wish to get it clearly.

Mr. CHIDESTER. To add the three words, "by local taxation."

Mr. ROBERTS. Now, I understand that objection is made to that, because it would prohibit these cities from using any surplus school fund that they might have in aid of their high schools. Now, the gentleman from Salt Lake suggested that if it were so arranged as to

say "if necessary," he would accept such an amendment as that. Now, I ask the gentleman, could he not make that addition?

Mr. CHIDESTER. I understand that they would be entitled to their per capita of money and that they could use that, and then the balance, of course, would have to be raised by local taxation. I do not understand that we could deprive them of their proper amount of the school fund.

Mr. ROBERTS. I understand that, but the idea is to give them the authority to use that surplus in sustaining their high schools.

Mr. CHIDESTER. Any arrangement that could be made that would allow them to use that money, I do not care where they use it, I have no objection to.

Mr. RICHARDS. Would you have any objection to passing this section for the time being in order that by morning we may prepare such a section?

Mr. VARIAN. I join in that.

Mr. ROBERTS. I will be very glad if that arrangement can be made.

Mr. VARIAN. Let the Salt Lake delegates see if they cannot make it satisfactory to the members of the house.

Mr. LUND. Mr. Chairman, I think we can dispose of this. I do not believe that the outside districts desire that Salt Lake City, if it prepares a child for the high school at thirteen years of age, which was the remarkable statement of our commissioner—I do not think that the outside counties desire that Salt Lake should not apply the pro rata that follows that child into the high school. It certainly would be unfair if we are educating children in the outside districts until they are eighteen years of age in the common school, that because a child in Salt Lake City was able to go into the high school at fifteen or any age younger, that he should not have any benefit of the State school fund. I believe the outside districts would be willing to accept, if an arrange-

ment could be made, that word "necessary," when it can be made to show that they had no opportunity for their high schools, that the high schools shall not be free in the same way that the common schools are free. I believe that the pro rata should follow every child as a duty of the State to that child until he is twenty-one years of age, no matter what school he may attend, and I should be in favor of accepting any arrangement that would let a part of the State school fund be used for those who are under twenty-one and are studying in the high schools, that it should follow them—that pro rata.

Mr. RICHARDS. I desire unanimous consent to have this section passed over until to-morrow. I am satisfied that we understand each other. The only question is to put it in proper form so that when it is presented here it will express the proper idea.

Mr. RICKS. Mr. Chairman, before that goes over I want to offer another amendment in line 4; after the word "university," insert the following, "Fifth: And agricultural college."

The CHAIRMAN. The amendment would be at this stage out of order.

Mr. EVANS (Utah). Mr. Chairman, I move you that it be the sense of the house that this matter go over until to-morrow.

Mr. KERR. Mr. Chairman, I am opposed to this motion, first, because this same section came up some time ago and was referred back to the committee. The committee has reported again and now the committee of the whole is unable to act upon it. We have been in session six hours. I move we arise and report progress.

The CHAIRMAN. That is not seconded.

Mr. PETERS. Mr. Chairman, I trust that this motion will prevail to let this go over until to-morrow, and I am satisfied that after each member has considered this section carefully, he

will come to the same conclusion I have, that the evolution that is going on in the school system—that a binding down proposition should be offered in this Constitution, is a little surprising to me. Here we are trying to fix a system, which is to remain for this State. I do not think you can find a system set forth in any constitution—with the evolution that is going on in educational matters, it strikes me that the whole matter should be left to the Legislature, and the remarks that I have heard this afternoon have confirmed me to that fact. We cannot agree, it seems like, on any proposition. If it goes to the Legislature, I think they can legislate according to the progress of the new State.

The motion to postpone was agreed to.

Section 3 was read.

Mr. BOWDLE. Mr. Chairman, I wish to offer an amendment to that section as follows: In line 15, after "with," insert "the State school tax shall be distributed among the several school districts of the State in proportion to the number of children in each of school age, as may be provided by law."

I want to say just a word about that amendment. In the section as reported by the committee, we have fixed the school age, as far as this section is concerned, between six and twenty-one years of age. That is, the distribution of this fund shall be according to the number of persons residing in the district between six and twenty-one years of age. I think the wiser thing for us is to leave the Legislature to determine the age, and for us not to legislate upon that question, and therefore, I submit my amendment.

Mr. EVANS (Utah). Mr. Chairman, I move as an amendment that the words "twenty-one" be stricken out at the end of line 19, and that the word eighteen be inserted in lieu thereof. My reason for offering this motion is this, that the greater that we shall make the

age wherein the common school fund is to be distributed, the less per capita will the fund be to the children of the State. Now, sir, I submit to you, that while I believe that the State owes to the children of the State a common school education—I believe, sir, that the age of eighteen will reach every purpose that is anticipated by the common schools. For an illustration, supposing the common school fund accruing from the sale of lands or interest thereon together with such taxes as may be levied for school fund purposes shall amount to one thousand dollars, I submit to you that if that shall be distributed between the children or among the children between the ages of six and twenty-one, that you decrease just one fifth from the purpose and the object of our school funds, if my proposition be true; that we want to educate the children with a common school education, and eighteen years of age will accomplish that object. Perhaps I might illustrate it better by saying to you that if there were only four children and they were entitled to one dollar each they would be entitled to one dollar each by reason of being four. Adding to that the difference of one more, it would reduce it down to eighty cents each for those five children. Now, this is the situation that confronts us in regard to these advantages, for the reason from six up to eighteen divided by four constitutes three in each department, adding on to the eighteen, three more, makes twenty-one, thereby being one-fifth of the age between six and twenty-one. I submit to you, gentlemen of the committee, that I have no objections to going just as far as we can in the education of the children of this State, but, sir, I desire to say that I think that the duty incumbent upon us first is to educate those between the ages of six and eighteen, and, I believe with the system that we have to-day that there will be no children who have a desire to attend school that will not

have concluded the eighth grade in the common school system and be ready to advance into some higher departments. If, upon the other hand, there shall be one or there shall be a hundred within this Territory when they attain to the age of eighteen who have not attained to that position in the school system, they either will never attain to it, or else they will be of that class that are sufficiently ambitious, if that spirit shall take hold of them, that they will be able to assist themselves. For these reasons I am in favor of the words twenty-one being stricken out and let it be confined to the age of eighteen, that our common schools may receive the support necessary to carry into effect the object that I believe this Convention designs to carry out.

Mr. BOWDLE. Mr. Chairman, I am opposed to fixing any age in this Constitution. It is unusual to do so. If the Legislature can be trusted upon any proposition, it seems to me they ought to be trusted upon the proposition of saying between what ages this fund shall be divided, and I am in favor of leaving it right there. The question of age is a question now that is agitating the people throughout a great many states of the Union. Some states are looking upon it at one age and some at another, and if we say here what the school age shall be and provide by that means of educating the children—and we thereby in fact fix the age, we ought not to do that. We ought to leave it so that if it shall become necessary to make it eighteen, make it eighteen. If it becomes necessary to make it sixteen, make it sixteen, or whatever age may be necessary for the Legislature to fix it, and I am opposed for us here to put any age whatever in the Constitution.

Mr. CREER. Did you vote for the militia law that a person should serve from eighteen up to forty-five.

Mr. BOWDLE. I objected to that.

Mr. THURMAN. Mr. Chairman and gentlemen, I agree with the gentleman

from Salt Lake, as to the question that this matter should be left to the Legislature, of determining the ages. The Enabling Act provides on page 3 that provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control. There is a question in my mind as to whether we have a right to exclude from the public schools anybody that is under the age of majority, under that Enabling Act. It clearly says that the schools shall be open to all the children of the State, and everywhere in this country and other civilized countries males at least are considered in law minors until they are twenty-one years of age. But aside from what the Enabling Act says upon the subject, why is it not safer to leave this matter to the Legislature? Should we progress as we hope to do in our school system, the time may come that we will find that we have reached that degree of perfection or advancement that the children everywhere in the Territory at sixteen will be out of the common school or ready to advance, and should we reach a condition of that kind we might want to get away from this proposition that the age shall extend to eighteen or twenty-one. In any event, it is one of those questions in which it is absolutely safe to leave it to the Legislature to determine, as suggested by the gentleman from Salt Lake, and they may want to vary it from time to time. They may want to run a few years one age and change the age within which they are proper to be admitted to the free schools, and for that reason I favor the amendment proposed and I cannot see that it can do any harm and may be productive of great good.

The amendment of Mr. Evans of Utah was rejected.

Mr. PIERCE. Mr. Chairman, it seems to me that the amendment offered by the gentleman from Salt Lake, Mr.

Bowdle, would be rather crude. Would not it be better to have it this way, "Shall be distributed among the several school districts according to the school population residing therein?" The article here would fit in better than Mr. Bowdle's amendment, because it says, "Such other means as the Legislature may provide." The Legislature may provide other means in addition to the school tax. For instance, I would like to suggest one. Line four of this article says, "The proceeds of all property that may accrue to the State by escheat or forfeiture." That is one of the means, or perhaps they might provide for a military tax. There are lots of ways in the different constitutions where they provide that whatever there is no other place for, goes to the school fund.

The CHAIRMAN. Do you offer that as an amendment?

Mr. PIERCE. I offer that as an amendment to the amendment, that the words "number of persons" and the words, "between the ages of six and twenty-one" be stricken out, and that in the place of "number of persons," the words, "school population," be inserted. Then it leaves it for the Legislature to determine who are the school population residing therein.

Mr. BOWDLE. I have no objection to that. It reaches the same point exactly. I will accept it and withdraw my amendment.

Mr. EICHNOR. Mr. Chairman, I am opposed to the amendment or amendments. When my friend, Mr. Thurman, said that he believed according to the Enabling Act the Legislature could not deprive any person under the age of twenty-one from attending the public schools, I think he spoke exactly correct, but I am in favor of standing by the report of the committee. I think Mr. Thurman is absolutely correct. Afterwards he seemed to wander off in different directions, but his first statement is sound.

Mr. EVANS (Utah). Why do you think it ought to be twenty-one?

Mr. EICHNOR. For the very reason that Mr. Thurman stated that all male persons of the age of twenty-one were considered in law children.

Mr. EVANS (Utah). What about females—would you deprive them of it at eighteen years?

Mr. EICHNOR. No, sir; this fixes it at twenty-one.

Mr. THORESON. What about the children under six years of age, according to the Enabling Act?

Mr. EICHNOR. A child under six years cannot testify in court. There is a legal term for that. It is a legal definition.

Mr. THORESON. Are there children under six years of age?

Mr. EICHNOR. No; they are babies, I suppose.

Mr. BOWDLE. Do you state, as a proposition of law, that a child six years of age can testify in court?

Mr. EICHNOR. Yes, when they are intelligent enough.

Mr. BOWDLE. You cannot find that in the territorial statutes.

Mr. EICHNOR. You can put that construction on it and if you have not read it, you had better go and look up the fundamental principles.

Mr. EVANS (Utah). I would like to ask if they can at seven?

Mr. BUTTON. Mr. Chairman, I would like to vote on part of Mr. Pierce's amendment each time. Divide that.

The CHAIRMAN. I would rule that the question is indivisible.

Mr. BUTTON. The question of the population I think ought to go in. If it is a part of the amendment, I do not want to vote for it. I would want to vote for school population in the place—

The CHAIRMAN. The committee has the right to have it divided.

Mr. BUTTON. And the age I think is right.

The amendment offered by Mr. Pierce was agreed to.

Mr. RICKS. Mr. Chairman, I move we rise and report progress.

The motion was rejected.

Section 4 was read.

Mr. SNOW. Mr. Chairman, I move to strike out section 4. My object for moving to strike it out is this, that all the rights, immunities, franchises, and endowments that the university now enjoys will be ratified and perpetuated in the article on schedule, and it is unnecessary to repeat it here.

The motion was rejected.

Mr. RICKS. Mr. Chairman, I move an amendment, to strike out, in line 2, the words "of Utah," and in line 5, "unto said university," and insert in line 2, the following, "and agricultural college." As the article now stands it implies a union of the university and agricultural college, and I believe that every gentleman on this floor will recognize that if the union takes place it would destroy the efficiency of that institution, and I believe that we ought to so arrange this article as to provide for a permanent separation of these two institutions.

Mr. IVINS. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Sevier, for the reason I think the two institutions ought to be united, and for the further reason that when the next section 5 is reached, I have a plan of union which I wish to propose. I do not know that I need at this time to enter into any debate upon the question, as I shall desire when section 5 is reached to give my reasons for the position I take.

Mr. PIERCE. I would like to have your plan developed before we vote upon this.

Mr. IVINS. If the committee wish it, I will give them my proposed amendment to section 5. I will do it as a part of my remarks. I expect when section 5 shall have been reached to introduce an amendment which I will read to fill

the blank, in line 7, with the following, "Logan, Cache County, until July 1, 1898, after which time it shall be located at Salt Lake City." I believe I have some very good reasons, gentlemen, for opposing the motion of the gentleman from Sevier and in support of my proposition to unite these two institutions as proposed in this amendment, which reasons I shall be pleased to state more at length when the time shall arrive to offer this.

Mr. SQUIRES. Mr. Chairman, we have come up now to the consideration, as I understand it, of the most important part of this whole article of the committee on education. We are worn out with a long day's session, and not in proper condition to discuss that matter. I therefore move that we rise and report progress.

Mr. THURMAN. Will you withhold that a moment? I desire to state this in opposition to it, if there is any motion to be made with reference to section 5, that we may know and understand what it is before we adjourn.

Mr. SQUIRES. We all know. Mr. Ivins has read it.

Mr. THURMAN. I do not know.

Mr. HART. Mr. Chairman, if the gentleman who made a motion to rise will withhold it one moment, I suggest that section 4 has not anything to do with the union question, and I am opposed to the amendment offered by the gentleman from Sevier, for the reason that that section, as it stands, is all right, and if, after considering section 5, the Convention should decide not to unite, a similar provision could be brought forward with reference to the agricultural college. I suggest that we do not rise now; that we vote down Mr. Ricks' amendment and then come to the question.

The question being taken on the motion of Mr. Squires, the committee divided and by a vote of 45 ayes to 30 noes, the motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole have had under consideration the article on irrigation and agriculture, including the report on forestry, and report said article for third reading. They also have had under consideration the article on education and school lands and report progress.

The Convention, then, at 5:26, on motion of Mr. Creer, adjourned.

FORTY-EIGHTH DAY.

SATURDAY, April 20, 1895.

Convention was called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Maeser of Utah County.

Journal of the forty-seventh day's session was read.

The following petitions were presented asking that the question of prohibition be submitted as a separate article to a vote of the people:

File No. 372, from the presbytery of Utah, representing 28 ministers, 44 elders, 56 teachers and 1,000 church members, by Miller, of Sevier.

File No. 373, signed by John Tingey and 31 others, from Salt Lake, by Raleigh, of Salt Lake.

File No. 374, signed by W. Kellogg and 38 others, from Salt Lake, by Butten, of Salt Lake.

File No. 375, signed by Wm. Sargeant, Sr., and 39 others, from Hoytsville, asking that an equal suffrage clause be placed in the Constitution, by Thurman, of Utah. Ordered filed.

The Convention then proceeded to the third reading of the article on water rights, which was read as follows:

Section 1. All existing rights to the use of any of the waters of this State for any useful purpose shall be recognized and confirmed.

Mr. CORAY. Mr. President, I move that that section be stricken out. It is purely legislative. I think it is perfectly worthless and I move it be stricken out.

Mr. L. LARSEN. Mr. President, I hope this motion will not prevail.

Mr. PIERCE. Mr. President, I arise to a point of order, that it is not in order to move to strike out on the passage of a bill.

The CHAIRMAN. Is there an article on forestry?

Mr. PIERCE. They are different articles. They will be passed by separate votes.

The PRESIDENT. The point of order is well taken.

Mr. PIERCE. The question then is simply the passing or rejecting of section 1 as read.

Mr. MALONEY. Mr. President, this is a constitutional recognition of existing rights and I hope every member on this floor will vote for it.

Mr. JOLLEY. Mr. President, that is all I had to say.

Mr. VARIAN. Mr. President, I move to fill the blank in the title by inserting the words "water rights."

Mr. FARR. Mr. President, I hope that section will be voted down. As reasonable men and rational men—that has been presented in the article of the majority report—the very substance and in almost those very words, it has been voted down. Now, why should we sustain it without some reason for sustaining it?

Mr. THORESON. Mr. President, I do not know as these remarks are in order, but I believe with the gentleman from Weber that the irrigators throughout this Territory are asking that something be inserted in the Constitution acknowledging the rights that they paid so dearly for and which they prize so much, and being as we have put in several other clauses that have little weight that are favorable—for instance the labor article that was proposed

was merely to satisfy the labor organizations. Now, this will satisfy the irrigators of this entire Territory, acknowledging their right.

Mr. THATCHER. Mr. President, I trust that the section will not be stricken out. It certainly can do no harm. I think it will do much good for the reason that it is a recognition by this honorable body of rights that already have been questioned. They were questioned in the bill which was voted down by this house yesterday. I am in favor of retaining that clause so that the farmers will know that this Convention wished them to retain acquired rights.

Mr. VARIAN. Mr. President, I want to call attention to the wording of that section in the second line. I think the word "of" in the second line, after the word "waters," ought to be changed to "in;" of course there are no existing rights in anybody to the waters of the State—that is belonging to the State. The intention is "in" the State. I move to strike out the word "of," and insert the word "in," after the word "waters," in the second line.

The amendment was agreed to.

Mr. HART. Mr. President, after the word "useful," in the second line, I move to insert the words "or beneficial."

The amendment was agreed to.

The PRESIDENT. The secretary will call the roll on the adoption of the article.

The roll was then called with the following result:

AYES—74.

Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Boyer	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan

Chidester	McFarland
Christiansen	Miller
Coray	Morris
Corfman	Moritz
Crane	Page
Creer	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Heybourne	Snow
Hill	Squires
Howard	Stover
Hughes	Symons
Ivins	Thatcher
James	Thompson
Jolley	Thoreson
Keith	Thurman
Kerr	Varian
Lambert	Warrum
Larsen, L.	Whitney
Larsen, C. P.	Williams.

NOES—6.

Green	Pierce
Haynes	Shurtliff
Murdock, Beaver	Van Horne.

ABSENT—26.

Adams	Kimball, Salt Lake
Brandley	Kimball, Weber
Clark	Lewis
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Nebeker
Emery	Partridge
Goodwin	Richards
Halliday	Robinson, Kane
Hyde	Spencer
Johnson	Strevel
Kiesel	Thorne
Kearns	Wells.

The president declared the article adopted, and referred to the committee on compilation and arrangement.

Mr. FARR. Mr. President, I wish to

explain in making a motion to strike out and then voting aye—I vote aye for the reason that on organizing the State you must provide so many of these things to please people. I voted aye to please the children.

Mr. PIERCE. I would like to know what children he means.

Mr. FARR. I have said all I wished to say.

The article was declared adopted.

The article entitled forestry was then read as follows:

The Legislature shall enact laws to prevent the destruction of and to preserve the forests on the lands of the State and upon any part of the public domain, the control of which may be conferred by Congress upon the State.

The roll being called on the passage of the article, the result was as follows:

AYES—73.

Allen	Lowe, Wm.
Anderson	Lowe, Peter
Barnes	Low, Cache
Bowdle	Lund
Boyer	Maeser
Button	Maloney
Buys	Maughan
Call	McFarland
Cannon	Miller
Chidester	Morris
Christiansen	Moritz
Coray	Murdock, Beaver
Corfman	Page
Creer	Peters
Eichnor	Peterson, Grand
Engberg	Peterson, Sanpete
Evans, Weber	Pierce
Evans, Utah	Preston
Farr	Raleigh
Francis	Robertson
Gibbs	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Heybourne	Snow
Hill	Squires
Howard	Stover
Hughes	Symons

Ivins	Thatcher
James	Thompson
Jolley	Thoreson
Keith	Van Horne
Kerr	Varian
Lambert	Warrum
Larsen, L.	Whitney
Larsen, C. P.	Williams.
Lemmon	

NOES—1.

Green.

ABSENT—32.

Adams	Kimball, Weber
Brandley	Lewis
Clark	Mackintosh
Crane	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Nebeker
Driver	Partridge
Eldredge	Richards
Emery	Ricks
Goodwin	Roberts
Halliday	Robinson, Kane
Hyde	Spencer
Johnson	Strevel
Kiesel	Thorne
Kearns	Thurman
Kimball, Salt Lake Wells.	

The president declared the article adopted and referred to the committee on compilation and arrangement.

The PRESIDENT. Motions and resolutions are in order.

Mr. EVANS (Utah). Mr. President, I desire to call up the motion that was made yesterday right after our recess, in regard to the reconsideration of the article taken upon the report of the committee on accounts and expenses. I desire to say in regard to that matter that I want to be fully understood by this Convention in my position on that question. In the first place, it does appear to be child's play the way this matter has been dealt with. I think the committee went beyond what they were asked to do in the resolution, and by reason of that they incorporated in to their report what the Convention did not expect. It was passed without half

of the members perhaps knowing what it contained—the latter part of it. My position upon this is that this matter shall come fairly and squarely before this Convention. They have decided that upon a vote of reconsideration once by more than three quarters majority vote, as I understand it, and if this Convention, after this matter shall be fully understood, desires that the vote that was passed yesterday is their will, I shall bow in submission to it, with the very best of feeling, but I individually am opposed to that question. It has been stated by gentlemen upon the floor that these officers are our servants. That is true, but I ask myself the question whether the servant is greater than the master. It has been said that we hired these men and we ought to pay them. That also is true. My position upon this question is that when we shall be unable to pay them, they ought to be promptly notified that the funds from which there is any assurance that they may receive their pay have been exhausted, and if they shall feel then that they are willing to continue their labors in connection with us, taking their chances upon receiving a compensation, then we may retain them and do it with honor. I want to say to you, Mr. President, that it is not in this instance a question with me of a few dollars and cents, but it is the way in which that scheme was passed by this Convention, that as I said before, three-fourths, as I remember it, of this Convention, decided they did not want to pass upon and rejected it. There were dozens of men in this Convention yesterday that did not understand that report. They did not hear it at all. They supposed they had confined themselves to the subject matter of the resolution that had been referred to them, and I want to say to you that after the money shall have been exhausted under that appropriation, I am here to stand with this Convention if it takes the whole of this summer, but I

am not willing that men should receive their pay here that live in this city. Their expenses are nothing to what the country members in maintaining themselves here by way of living, and I am not willing that a portion of that appropriation should go to them and these men who have to pay their board be deprived of their part. I submit to you, sir, that there is just as much inconsistency in any gentleman upon this floor voting away the money that justly and rightly belongs to his colleague for the purpose of paying these officers as there is to ask the officers to accept in common with us their compensation and take their chances with us. Now, this is the way I view this matter. I think it is a question of fairness and that only. No more and no less. It is not a question of a few paltry dollars, and I am in favor that this matter shall be reconsidered. Then, if this Convention on calm deliberation shall say that they are willing that the appropriation should be applied for these specific purposes, and if anything shall remain that they will take that, then I have no more to say.

Mr. EICHNOR. Do you mean to say that the delegates that live in Salt Lake City draw pay when the outsiders draw no pay?

Mr. EVANS (Utah). No, sir.

Mr. HART. Mr. President, I am opposed to the reconsideration of this motion. I think we have already spent altogether too much time on this small matter. We have spent more time represented by value than this whole item of compensation amounts to for officers of this Convention, from now to the close of the Convention. I do not think, Mr. President, that there was any trick in that report of the committee on accounts and expenses. I do not think any trick was intended. If I remember correctly, the Convention listened to the reading of that report and there was certainly sufficient order maintained for every member present here to hear that

report, and if there is any misunderstanding about it, it is entirely the fault of members in not paying attention to the reading of the report. It is a very small matter and I am in favor of paying the officers. The total amount for them from now on would not amount to one day's pay of the members.

Mr. JAMES. Mr. President, I support the remarks of the gentleman who has last spoken.

Mr. BARNES. Mr. President, I desire to offer a few remarks to the question at issue. So far as the committee being censurable for doing that which they were not required, I will say if that is the feelings of the gentlemen on this floor, why, I for one bow in humble submission to their will, but, sir, we were required, as I understood it, to report upon a certain matter. That was as to whether the officers of this Convention were all needed at the present time or not. We did our best to find out as to whether they were needed or not and we made a report in accordance therewith. So far as there being any trick in it, I denounce that entirely. It is as far from the idea of the committee to interpose any trick in that regard as the light is from the darkness. There was nothing of the kind; and if we exceeded our authority it was because we desired the matter to be properly understood. We desired the feelings of the committee to be properly understood and not misunderstood. I claim, gentlemen, that these individuals that we have employed are to all intents and purposes servants of this Convention. We have agreed with them to serve us for a stipulated per diem, and if one cannot go back upon the agreement made with them. Upon investigation we found that possibly some of the employes could be dispensed with, the amount probably of five to ten dollars per day, and when we came to consider that in all probability this Convention will be through in about ten days or probably less—ten times ten, putting it in at the utmost

figure, would only be a hundred dollars. What difference will it make to any member of this Convention, the paltry sum of one dollar per day? Gentlemen, it is too late to commence to study economy. We should have thought of that seven weeks ago when we engaged these men and these ladies that are employed, but having employed them, I say let us pay them honorably whether we get another cent or not. My feelings with regard to that are that it would be dishonorable to discharge them at this late hour of the day—at this late hour of the proceedings, and rather than cast dishonor upon this Convention and upon the gentlemen who compose this Convention, for one, I would rather pay them myself. That is exactly where I stand. Let us pay them honorably and if there is anything left let us divide it. The recommendations of the committee were made in good faith. We believed that you asked something of us and that we were not mere figure-heads, but that you desired information from us, and we gave it according to the best of our judgment and ability, and gentlemen, as I said before, if we have erred in our understanding of what was required of us we humbly bow to your will and submit to the censure, but I ask the gentlemen to express themselves plainly with regard to this matter. If we are in the right, say so, if we are in the wrong, say so.

Mr. SQUIRES. Mr. President, I do not care to take up the time of this Convention but simply to call attention to one thing, and that is that the committee who engaged our stenographer made, as I understand it, a written contract with him, and I do not see how we can possibly violate that contract. In any event a provision should be made to pay him for his services.

Mr. THURMAN. Will you please move the previous question while you are on the floor?

Mr. SQUIRES. While I am on the floor, I move the previous question.

The previous question was ordered.

The motion to reconsider was rejected.

Mr. CHIDESTER. Mr. President, I now move that we resolve ourselves into committee of the whole.

The motion was agreed to and the Convention then resolved itself into committee of the whole with Mr. Ivins in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, you have before you for consideration the article on education, section 4.

Mr. KERR. Mr. Chairman, I believe section 2 went over until this morning.

Mr. HART. It was passed. We were to take up that after we finished the article.

The CHAIRMAN. There are no amendments here to section 2. Section 4 was under consideration when you adjourned. What is your pleasure, gentlemen?

Mr. PIERCE. Section 5.

Mr. ROBERTS. Mr. Chairman, I move as an amendment to section 4, in line 2, after the word "Utah," to insert the words, "and the agricultural college," and then at the end of the section, after the word "university," in line 5, add the words "and agricultural college."

Mr. RICKS. Mr. Chairman, I moved an amendment exactly like that yesterday and it was voted down.

The CHAIRMAN. Section 2 is not what Mr. Ricks referred to.

Mr. KERR. Mr. Chairman, I made the amendment to section 2—a similar amendment, and it was passed together with that section, and it is still before this committee. It was not voted on.

Mr. RICKS. I also made this same amendment to section 4 that has been proposed and it was voted down.

Mr. KERR. It was not voted down.

The CHAIRMAN. The chair, from his recollection of the proceedings last night, thinks that the amendment of Mr. Ricks was not voted down. It was

before the house, but no vote was taken on it. Mr. Roberts' amendment is in order, gentlemen.

The amendment of Mr. Roberts was agreed to.

Section 5 was read.

Mr. EVANS (Utah). Mr. Chairman, I move to amend section 5, in line 7, by filling the blank with the words, "one place."

Mr. ANDERSON. Mr. Chairman, I move as an amendment to the amendment the striking out of the words "and agricultural college," in line 4.

Mr. KERR. Mr. Chairman, I am opposed to the motion. The section provides for the union of the higher educational institutions of the public school system. If this amendment should prevail, the State normal school, State school of mines, and other departments of higher learning of the public school system will be connected with the university, while the agricultural college would remain a separate institution, and I desire before a vote is taken on this amendment to state briefly my position on this subject. As is well known, I, for the last three years, have been in favor of a union of our higher educational institutions in Utah. During the last few years I have visited the leading colleges and universities of this country and Canada, and have studied the results of a union of the higher educational institutions in some states, and in others the results where the institutions have been maintained separately, and while upwards of a year ago, I was at that time connected with the university of Utah, I was in favor of the union of the agricultural college and the university—I am still in favor of the union of these institutions, though I have no direct personal interest in either of them, being connected with a private school. But the argument in favor of a concentration of our higher educational institutions, it seems to me, is incontrovertible, and in the interests of economy in the educational

institutions of our State, I believe that our higher educational forces should be concentrated, that all the institutions of higher learning in the State should be under one management and be located upon the same site. I shall not take up much of the time of the committee in explanation of my position, but I desire to state briefly my reasons for advocating a union of these institutions. In the first place, I find that during the years 1890 to 1894 there was appropriated to the agricultural college, the university of Utah, the insane asylum, and the reform school, \$1,061,602.

Mr. GOODWIN. May I ask you a question? Do you see any good reason for including the State normal school with the university? That is, in your judgment, if the State was rich and able to support outside a normal school for the fitting of teachers for the public schools of the Territory, wouldn't it be as well or better to have that normal school situated in some other place than where the university and agricultural college were?

Mr. KERR. If the State were rich, many of the objections to a separate maintenance of all of these institutions would be removed. I shall state my reasons for at present advocating the maintenance of the normal school as part of the university as I proceed. The territorial indebtedness at present, as I understand, is about eight hundred thousand dollars. The agricultural college and the reform school were established and all of the institutions which I have named have been maintained during the last four or five years mainly by increasing the State indebtedness, and I desire in this connection to call attention of the committee to the fact that under the State government it will be impossible to contract a debt in excess of two hundred thousand dollars—with the result that all the burden of maintaining the State government and the several public institutions will have to be borne by the

people of the State; that these institutions and the several departments of the State government will be maintained only by the taxes of the people.

Mr. RICKS. You state that these institutions are to be maintained by taxes of the people?

Mr. KERR. If you will wait until I get through I think I shall answer your question. It is true there has been a land grant to a number of the departments of the university and also to the agricultural college. There has also been a large grant of land to the common schools, but at best it will require several years to dispose of the school lands and invest the money and realize any return. All the lands which have been granted to the several institutions of higher learning in the State will have first to be located, then they will have to be sold, the money will have to be invested, and this will require several years, during which, I say, these institutions, the common schools, as well as the departments of the State government, will have to be maintained from the direct taxes of the people, a burden which, gentlemen of the committee, I believe the people are unwilling to bear. I believe furthermore they are unable to bear the burden which we will place upon them if we attempt to maintain all of these institutions of learning as separate institutions. From a financial point of view, these institutions should be united and placed upon the same site.

The question arises as to what will be saved by the maintenance of all these departments of higher learning upon one site. In the first place there must necessarily be in each institution departments of English, mathematics, modern languages, chemistry, physics, and so on, and in the university to-day the classes in the advanced subjects of English, mathematics, and these other departments, are very small, indeed many of the classes contain but from three to six students. In the agricul-

tural college the same is true. If we were to unite these two institutions the two classes, numbering say five and three respectively in the two institutions, could be placed together, a single professor could do the work then which now requires the time of two, and the salary of one professor in one department would thereby be saved. This applies to nearly all the departments of general instruction in the two institutions. I estimated, a year ago, the saving that would result from a union in the department of mathematics alone. By uniting the two departments, there would be saved the salary of one professor, the difference between the salary of an assistant professor and a first grade instructor, the difference between the salary of a first and second grade instructor, which would aggregate in that department alone about twenty-eight hundred dollars a year. The same is largely true in the department of English, the department of physics, the department of chemistry, and in all the general departments of the two institutions, mathematics, English, and the general sciences, from the foundation work in all of these departments of higher learning.

On page 35 of the report of the board of regents of the university of Utah for 1894 to the governor, are the following statements:

The number of students in Anglo-Saxon history, three; Greek history, four; Roman history, five; third year Latins, three; advanced botany, four; biology one; Chaucer and middle English, one; advanced chemistry, two; civil government, six, and soon, bearing out the statement which I have just made with respect to the number of students in the different classes in the university, and the same is true also of the classes in the agricultural college. The main saving, however, would be in the cost of equipment. For example, the most expensive work in our higher educational institutions to-day is in

science and engineering. Thousands and hundreds of thousands of dollars are expended in the great universities of our country in the equipment of laboratories, machine shops, and workshops. Now, there are not to exceed in Utah, I have estimated, about two hundred students who are prepared for college work. All the students of the Territory for years to come could use the same laboratories in physics, chemistry, mineralogy, geology, biology, and so on. Thousands of dollars have been expended in the university for apparatus in these laboratories; thousands of dollars have been expended in the agricultural college in the equipment of the same laboratories. In the department of mathematics two years ago, I expended about fifteen hundred dollars for mathematical models and instruments. In the agricultural college, for the same work, the same models and instruments would be required at another expense to the Territory of fifteen hundred dollars. And yet, gentlemen of the committee, the students who are doing higher educational work in the Territory would only have fifteen hundred dollars' worth of apparatus to assist them in their work, whereas if the institutions were united and placed upon one site, by expending just one-half the means all the students doing this work would have the same facilities that they would have for double the expenditure where the institutions are maintained on separate sites.

As to the fifty thousand dollars for library in the university of Utah, you would have to expend another fifty thousand dollars for the same library in the agricultural college; thus requiring one hundred thousand dollars of the taxes of the people, in order to provide fifty thousand dollars' worth of library facilities. The students would have no greater advantages for the expenditure of a hundred thousand dollars, fifty thousand dollars to each of the two institutions on separate sites,

than for the expenditure of just half that amount, fifty thousand dollars for a library in one institution, if the departments were all placed on the same site. Now, a museum, which is very essential in the work of higher education, is very expensive and costs hundreds of thousands of dollars. One museum would do all the departments of higher learning as well as any one, and thereby save again thousands and thousands of dollars to the State. Conservatories—we cannot do work in botany, arbor culture, and so on, without our conservatory. One conservatory would serve both institutions as well as to have one for each. In this connection, I desire to state that Congress, by the Enabling Act, grants a hundred thousand acres of land to the school of mines which shall be connected with the university. Now, in order that we may do the work in mining and in mining engineering in the university, or that it may be done, there must necessarily be a workshop. There must be a machine shop; there must be a blacksmith shop, the foundry, and all the facilities that are required for the engineering work in the agricultural college, in mechanical engineering, electrical engineering, and civil engineering, through a large part of the work of the process. In the Enabling Act it is provided that the mining school must be connected with the university. If we maintain these institutions as separate institutions, we shall have to spend in years to come hundreds of thousands of dollars of hard earned money of the people in equipping these workshops, machine shops, and laboratories, because the work of mining engineering cannot be done without the facilities that are required in the work of mechanical and electrical engineering, which, in accordance with the laws creating the agricultural college, must be maintained in that institution. Then, hence, in that one respect alone, there would result in

years to come a saving of hundreds of thousands of dollars to the people of Utah. If we shall concentrate our higher educational process, then when the lands which have been granted to the several departments of higher learning in the State shall have been sold, the moneys invested, and the revenue used for the maintenance of the institutions all upon one site, when we expend fifteen thousand dollars for books, the students in all the departments of the university will have access to these books, instead of giving three thousand dollars to a normal school, in one part of the State, five thousand dollars to an agricultural college in another part of the State, three thousand dollars probably to a school of forestry, or some other institution of higher learning in another part of the State, the students in these several departments having access after all, notwithstanding the expenditure of fifteen thousand dollars of the people's money, to only two, three, four, or five thousand dollars' worth of books. As a result of the centralization to which I refer I need call attention only to North Dakota. In the Deseret News of Salt Lake City, April 12, 1895, is the following statement:

North Dakota is in rather a bad fix, for her chief educational institutions. It is stated that for the next two years the state university and two normal schools will have to remain closed, because of lack of funds. The state has expended so much in the past that either borrowing or raising sufficient money by taxes is out of the question, so the schools must close for the time stated.

What have they done in North Dakota?

In order to satisfy the clamor of the politicians of the several counties of North Dakota, an institution of some kind has been given to nearly every county. They have a university, they have two normal schools, in different counties, a school of forestry in another, an agricultural college in an-

other county, a scientific school in another still, and a school of technology in another. Now, gentlemen, this is the result of attempting to maintain schools of higher learning in different parts of the state. As stated here, they are all closed. The schools exist only in name, and the state has, through decentralization, deprived its sons and daughters of the opportunities of higher education. Again, I take the following from the Salt Lake Tribune of April 5, 1895, in reference to Montana:

The state board of examiners has commenced the work of cutting down the allowance appropriated by the last legislature for state institutions. The legislature appropriated about one hundred thousand dollars more than the revenues of the state this year. This will necessitate a great reduction in the expenses of the state. The legislature appropriated fifteen thousand dollars for this year's work on the agricultural college and this was cut off entirely. The thirty thousand dollars appropriated for the eastern state prison was also cut off, and the board decided to discontinue work on this institution this year. The appropriation of fifteen thousand dollars for the state university was reduced to seventy-five hundred dollars. And the deaf and dumb school was cut from fifteen thousand to six thousand dollars, which it is thought is enough to pay operating expenses for the present year.

Here is another example. We have the institutions maintained in different parts of the state in Montana, with the result that there, too, they have to-day no opportunities of higher education, and the young people of the state of Montana who desire opportunities of higher education are required to go into other states. The moneys granted to the agricultural college by the government, the appropriation here made to the universities, if the institutions were combined, could do a little work, but as it is, the seventy-five hundred dollars granted to the university is barely enough to take care of the property of the institution, and entirely inadequate for the work of the institution. This is the result of supporting

the institutions in the states adjoining Utah, in the states of North Dakota and Montana.

As an illustration of the results where the institutions are all united I need refer only to Illinois, Wisconsin, Minnesota, and Nebraska, and in this connection, I desire to read a short extract from a statement made by President Jordan, of the Leland Stanford Junior university. He says:

The best results in any line of education cannot be reached without the association of all others. The training of the engineer will be more valuable from his association with the classical student. The literary man will gain much and lose nothing from his acquaintance with the practical work of the engineer. The separation of the schools, founded by the Morrill act, from the state university was a blunder which time will deepen into a crime. With the union of the two has come rapid growth of the universities of Wisconsin, Illinois, Minnesota and Nebraska, where the higher work of the state is all concentrated in one place.

Now, in the state of New York, we have one of the best examples of the results which follow a concentration of effort in higher educational work. Cornell university comprises all the departments of the higher learning of the state public school system of the state of New York. There are the college of mechanical engineering, civil engineering, electrical engineering, and of agriculture, a school of law, school of philosophy, and so on, and in that institution the work has been more satisfactory than in any other institution of the kind in the United States. And in that connection, I desire to meet this objection which has been made to the union of the agricultural college and other higher educational institutions. In the first place, it has been stated that if we unite the agricultural college with the university, we shall thereby deprive ourselves of the government appropriation. First, I desire to read from a letter which I received from Doctor Roberts, director of the agricultural college of

the state of New York, connected with the Cornell university. He says:

We had received the twenty-five thousand dollars which is made available by the last act of Congress, and it is divided equally between the colleges of agriculture and mechanical arts, and the fifteen thousand dollars for experimental purposes is also given us, and is under the management of the board of control, subject of course always to the approval of the executive committee.

That is in reply to a letter which I directed to him in December last. Again, in the report of the president of Cornell university to the board of trustees of 1888, on page 25, is this statement:

It should also be noted that during the past year the passage of the agricultural experiment station bill by Congress has provided for giving to the state of New York fifteen thousand dollars a year for the conduct of agricultural experiments. The design of the bill was that this money should go to the institutions established under the Morrill act, in 1862. In accordance with this design the money has come to Cornell university. So that by a union of these institutions, we do not deprive ourselves of the grant which has been made to the agricultural colleges.

Again, it has been stated that an agricultural college cannot be made successful in the shadow of a great university. Again, I call attention to a statement of Director Roberts of Cornell university, in which he says:

I might say that when I came to Cornell it was predicted by all the separate colleges of agriculture that I could not make the teaching of agriculture in the shadow of a great university successful, but after having studied the system practised at the Iowa college, and after having taught there for nearly three years, I thought I saw conclusively that if we had the college of agriculture in New York, it must be a part of the university.

Now, as to the results of that work I quote again from the report of the president of Cornell university to the trustees of 1891, where it was stated—this is by the director of the agricultural college in his report to the president:

It gives me great pleasure to report that the agricultural college is more prosperous at the present time than at any time since its establishment. The honors won by the present class and by the demand for our graduates of agriculture as managers of farms and teachers testify to the high character of the work done by the students. So that the students in the department of agriculture are capable of contesting with the students of art, philosophy, law and so on.

Again, you are well aware that the number of graduates from these two classes of students who have been called to positions of honor and trust is very large (I call your special attention to this); it is not generally known that in the last ten years Cornell has sent out more teachers and experimenters in agriculture and more liberally educated men who have engaged in farming than any other institution in the land, notwithstanding the fact that the agricultural college and the colleges of engineering of the state of New York are connected with Cornell university, under the shadow, if you please, of a great institution of learning, in which departments of art, literature, and philosophy are maintained. I will state that these statements are also borne out in a report of the commissioner of education, that is, that the agricultural college of Cornell university has furnished more teachers to the agricultural colleges of the state and more experimenters in agriculture than any other agricultural college of the United States.

Again, as to the attendance of students in the several departments, where they are all maintained on one site. In the register of Cornell university for 1893-4 page 247, I note the following: "Students in arts 136, letters 117, science 84, civil engineering 115, electrical engineering 322, mechanical engineering 234, students in agriculture 146;" and in the report of the director of the agricultural college to the president of the university and also in his personal letter

to me it is stated that upwards of four hundred students of the two thousand students of Cornell have been doing work in agriculture during the past year, and here it is noted that the students in agriculture and engineering number 792, whereas the students of law, of medicine, of arts, philosophy, and letters number only 694. And that, notwithstanding the fact that the college of agriculture and mechanical arts is connected with the university in which, as I stated before, are maintained the departments of philosophy, law, letters, arts, and so on. While a student of Cornell university I observed the results of having these institutions all under one management on the same site. And I am firmly convinced that all the results are favorable and I do not know of any objection that can be raised to a maintenance of these institutions together. And as to the way in which the people of New York regard them, it has been stated that of course a president of the university would advocate that, and of course a director or president of an agricultural college would present as favorable a view as possible of the work that is being done; as to the way in which it is regarded by the people of New York, I desire to quote the following. I have received reports of these officers and this statement is correct. This is a statement of the president to the trustees.

It is also worthy of note that in the course of the year farmers' institutes held in different parts of the State have disclosed a very gratifying feeling of friendliness toward the university; the officers of the state agricultural society have frequently called upon professors of the university to address these institutes and there has been no lack of evidence of a friendly feeling toward the department of agriculture in every part of the state. The farmers are more and more coming to see that at the university there is given the kind of instruction that will be of great benefit

to young men who are to devote themselves to agricultural pursuits. In Cornell university there are students who are doing post graduate work in agriculture, and in conversation with one of these graduate students with whom I am well acquainted, he stated to me that there were many advantages to the students in agriculture and mechanical arts by having all these departments maintained on the same site. He says, as we all who are acquainted with educational work recognize, if the students of agriculture and mechanical arts are in an institution where nothing else is taught, there is a tendency for them to become more or less narrow. They consider everything from a certain point of view, and that is always true of students who are in the classical institution, an institution in which nothing but the classics and literature are taught; but where all of these departments are located together upon one site, the students of agriculture, the students who are making a specialty of chemistry, physics, mathematics, of modern languages—who are studying law, or medicine, all come in contact. While they are dining together they enter into conversation upon different subjects. In their societies, in their clubs, in their fraternities, they associate together, and one of one of the departments gets a great many ideas pertaining to the work which is going on in other departments of the institution, and the result is that when students graduate from any of the departments of an institution of this kind they are broader, they are men and women of greater culture, greater refinement, they have not only a knowledge of a particular subject, they are not only specialists in one particular line, but they are broad; they have a good general education, and after all we know that even though a man may be a specialist, if he is narrow, if he has not the general foundation, after all he is little more than a crank. So that educationally,

there are many advantages which come from a union of all our higher educational institutions. Now, as to the question considered from a local point of view. What will be the result if we attempt to maintain our institutions in Utah on different sites, or if we unite them upon the same site? It is urged that the union cannot take place without a loss to the State, because if the institution is removed from Salt Lake City, there will result a certain loss; if it should be removed from Logan, there will also be a certain loss to the State. If removed from both of these cities and located at some other, the loss will be greater. To show the way in which this was regarded by others, I shall read a letter from the president of the Columbia College, New York:

One department inspires another and oftentimes the facilities of one enlarge and broaden those to be found in another. We have faced very much the same question at Columbia in determining whether we would try to keep the entire institution on one site in the city of New York or whether we would allow it to be broken up into fragments, each school finding a location in any part of the state that suited itself. Without a dissenting voice we have chosen the policy of concentration, although it has compelled us to buy a new site for the college at a cost of two million dollars for the land alone. I can make no stronger argument in favor of the policy I have urged above.

That is the way it is regarded there. They, rather than to have the different departments distributed throughout the state upon different sites, give two million dollars alone for land, besides the expense of erecting buildings and providing for the work of these two institutions. And I desire now to call your attention to this fact, if we do not unite these institutions the result in my judgment will be this, the agricultural college can hope to get little more, if any, than that which is granted to the college by the general government. In the aggregate twenty-five thousand dollars for the agricultural college

and fifteen thousand dollars for the experiment station. And as Montana, so far as I have been able to learn, is certainly in as favorable position financially as is the State of Utah or as we can hope that the State of Utah may be, the result would be that the university would have a paltry appropriation of probably two or three, four, five, or ten thousand dollars—merely enough to take care of the property of the institution.

And gentlemen of the committee, we would have in Utah no institution of higher learning. We would drive the young people from Utah into the eastern and western states for the opportunities of education, which they could not get at home. If we unite our institutions, if we concentrate all of our higher educational forces so that whatever available means there may be for higher education may be put into the one institution, so that whatever revenue there may be from the grants of land which have been made to the State for higher education can be used in this one institution for the respective purposes provided for in the act of granting the lands, then we can equip an institution which can grow as the people grow and which will provide the facilities necessary in order that our young people may obtain the higher education that they require, and obtain it here at home. There are thousands upon thousands of dollars being spent annually by our young people who are in eastern and western institutions, and I grant you that had the money which has been put into these two institutions as separate institutions for the last five years been put into one institution we would have had, gentlemen of the committee, to-day an institution of higher learning in the State of Utah which would have been a credit to the State and which would have obviated the necessity of many of our young people going from home in order to obtain these educational opportunities. One

point further. That is, that after all, the great institutions of the United States and of the world do not become great through the appropriations which are made by the state government. They grow mostly by endowment, which is made by wealthy men. Rockefeller has endowed Chicago university with about four millions of dollars; Sage, of Ithica, New York, has given to Cornell university in the aggregate upwards of a million and a half; Stanford has founded and endowed the great university in California, the Leland Stanford Junior university, and so on. The wealthy men of the age are making grants endowing institutions, founding institutions, in order that they may provide facilities for the young to obtain higher education. And I desire to state in this connection that no man of wealth can afford, neither can you induce any man of wealth to put his money into an institution that is not permanently established. No man will put his wealth into an institution which is struggling for a mere existence. If a man has fifty thousand dollars which he desires to put into an institution for the purpose of perpetuating his name in that institution, he will go to an institution in which the people take pride, and an institution which will be an honor to the people of the state and an honor to him to have his name connected with.

A man would not to-day give to either institution a ten thousand dollar library, neither would he erect for either institution a twenty-five or fifty thousand dollar laboratory, for the very reason that should he do so, probably the Legislature two years hence would move the institution and thereby waste the money that had been contributed by the party who was interested in the work, so that until this question is settled, gentlemen, we can expect no assistance from the wealthy men of our State; and I am pleased to state that it seems that it has become fairly the fash-

ion of the rich men of our day to found and endow educational institutions of higher learning. And what a magnificent fashion it is. It is as if, gentlemen of the committee, the commercial age has become vividly aware of the terrible extent to which we are sacrificing our sons to the Moloch of wealth, as if it were turning even now eagerly to the more beautiful worship of the Apollo of science and education as a means of uplifting men and making life really worth living. Gentlemen of the committee, there is not a population in Utah which warrants an attempt to maintain several institutions of higher learning. There is not the wealth in Utah which will enable us to maintain even one institution of higher learning, without the aid of the wealthy of our State, and we cannot hope that the wealthy men of Utah will put their money into starving institutions; but should we concentrate our efforts, should we place these institutions on one site, then, whatever available means there is in the State can be used to the greatest possible advantage and the wealthy men of the State can be induced to put their money into the institution, to endow chairs, to purchase libraries, to erect laboratories, and to assist the institution in various ways for higher educational work. Gentlemen of the committee, the question confronting us in this, are we willing now to take hold of this question and settle it, or do we want to perpetuate the wrong that has been done the people of Utah by leaving it to the Legislature, year after year, to fight the old battle over and over again, while the people are being drained in an effort to maintain the institution? Do we want an institution of higher learning in Utah? I believe the history of the people of Utah bears me out in the claim that we do. If we do, there is but one honorable course before us and that is to take hold of this question, unite these institutions, place them upon one site, and thereby lay the foundation

for an institution in Utah, which will be the pride of the people and to which our sons and daughters will go for the purpose of preparing themselves for the battle of life. Are we not adequate, are we not capable of grappling with these problems, as well as will be the Legislature? Settle it in the Constitution, and it is settled for all time, and remember, gentlemen of the committee, that this is a question which not only interests us to-day, not only is of interest to the people for the next year or two, but which is of interest to the people and of concern to them throughout all time. Let us take hold of the question and settle it, and instead of dissipating our energies by attempting to maintain schools of higher learning in different parts of the State, thereby depriving the State of any institution of really higher education, let us concentrate our efforts, let us unite our educational institutions. Let us place them upon one site, and fix them there so that future legislation may not interfere with the foundation work upon which we may build and which will enable us to develop and build up in Utah a system of education that will be a credit to the State.

I have forgotten to answer the question that was propounded by the gentleman from Salt Lake. In a few words I will state in answer to that, this, if the State were wealthy and had plenty of means, one or two normal schools could be maintained in different parts of the State, but by having a normal school connected with the university, all the students of the normal school, first, have access to the library of the university—the great university library, whereas, if the schools should be on separate sites at best we could hope to have but very few books of reference, at least for years and years to come, because the State could not provide the means with which to procure the books. Second, the students of the normal schools do all their work in general sci-

ence, mineralogy, geology, biology, physics, chemistry, etc., in the laboratories of the university, thereby having the benefit of all the equipment in these different lines in the State university. If the schools were located upon separate sites for years to come there would be practically no facilities for the work in general sciences because the State has not the means and we cannot hope that they will have for years and years to come.

Again, they, too, have the opportunity of associating with the college students, students in the college departments, in letters, arts, and science, and if the institutions are combined in the different engineering courses and also in the course of agriculture, and this tends to broaden their views, because we believe the teacher should be the most learned and the broadest in his or her views, and not be narrowed down to a view of subjects which must be taught in the common school. We could not hope, if we had a normal school separate from the university, or a public institution of higher learning, to have the facilities for the work which would be required. And there are many arguments in favor of keeping the normal school with the university even if we had plenty of money, but especially as we have not the means, and cannot hope to have, at least for the next generation or two. I do not see that there is any argument in favor of separating the normal school, but there is a very great argument in favor of keeping it with the State institution of higher learning. [Applause.]

Mr. GOODWIN. I would like to ask the gentleman a question or two. Is it not a fact that teachers in the normal schools are not there simply to take an academic or a collegiate course, but rather that they are sent there simply to be drilled in a way to communicate what they already have learned, is not that the real object?

Mr. KERR. To a great extent that is true. The work, however, extends over

some of the college courses and although this work is elementary in a great many sciences, they require laboratories for the work.

Mr. GOODWIN. If the State should become rich, as possibly it will be rich at some time, and the State might then want to change and make an outside State normal school, why include it in this constitutional provision at all to prevent that?

Mr. KERR. I personally should not object at all to an amendment which would make that possible. I think for years to come—probably the next twenty years, the normal school will be sufficient. It is possible that at the expiration of that time a school would be established separate from the institution. I would not object to an amendment to make that possible.

Mr. GOODWIN. Until otherwise provided by law.

Mr. KERR. I would not want that to apply to the normal school now.

Mr. GOODWIN. No. In the present normal school is there anything but very simple apparatus?

Mr. KERR. No, sir; not that I know of; nothing but cabinets and libraries. In a high school of course they have to have facilities for scientific work—laboratories.

Mr. ROBERTS. I would like to ask Mr. Kerr a question. I did not catch from the first part of your remarks whether you were in favor of locating these institutions at Salt Lake or not.

Mr. KERR. Well, I said nothing about their location.

Mr. ROBERTS. You spoke merely then to the question of union somewhere?

Mr. KERR. Yes, sir; I did not discuss the question of location at all.

Mr. ROBERTS. The reason why I am obliged to ask the question is that I missed the first part of your remarks and I did not know whether you favored the location at Salt Lake.

Mr. KERR. Personally, I am in favor

of considering this question of union by itself, on its merits, and then let the question of location come afterwards. That is why I did not refer to the question of location at all in my remarks.

Mr. THURMAN. Do I understand you that if a state were rich and able to bear it, you would favor a separation of these institutions?

Mr. KERR. No, sir; under no circumstances would I favor a separation of these institutions. Every argument from an educational point of view is in favor of a union of all these institutions and there can be so far as I know no argument against it. I stated that there would not be so great an objection to attempting to maintain these institutions as separate institutions if the State were wealthy and able. In other words, instead of considering from the point of view of finance and education, we would consider it only from an educational point of view.

Mr. GIBBS. Can you give us in round numbers the savings that would be obtained each year?

Mr. KERR. That depends entirely upon the amount of appropriation, in other words, upon the amount of means the institution has. If the two institutions should have one hundred and twenty-five thousand dollars a year, I have estimated that (of course this is only an approximation) there would be at least thirty thousand dollars a year saved.

Mr. ANDERSON. Mr. Chairman, I hope this motion will prevail to strike out the words, "the agricultural college." The agricultural college is already established at Logan and I think that it should remain there. I do not think that the difference in the expense of running the institutions if they are separated will be as great as indicated. After our State becomes populous an agricultural college will be filled with students, and I think that it would cost nearly as much to run them if they were united as it will separately. I

think that the line of education is altogether different—that is, the line of education taught in the agricultural college is somewhat different to what it is in the university, and I think that the farmers of our country do not want it united.

I think that if it is united that the university will have a tendency to overshadow and make it of secondary importance, and I think that when the government made the appropriation and authorized these colleges to be instituted throughout the different states, I think that it intended that they should be separated. I would not be in favor of going to the extreme as Dakota has done and divide all of these institutions of learning, but I would be in favor of uniting the university and all of the other institutions of learning, except the agricultural college, and have them located at Salt Lake City, but I am in favor of the agricultural college remaining as it is now located in Logan.

Mr. MAESER. Mr. Chairman, I am opposed to Mr. Anderson's amendment. I think there are two sides to this great question. There is an exclusively professional and an exclusively financial side to this. If we would consider only one at a time, we may arrive at a different conclusion, as for instance in Europe, in the old established governments and states, they keep separate institutions for forestry, for surgery, and other institutions, separate entirely from the university. I call the attention of the committee for instance to the polytechnic school of Paris, and the great clinic in Vienna, and the normal schools of Berlin and Dresden, all of which are of world renowned fame, entirely separate from the universities. But we are not in such conditions. That is the only point wherein I would differ from Professor Kerr. When he says in answer to my friend from Utah County, Mr. Thurman, that under all circumstances he would be voting for a union, I disagree with him.

If we were so constituted in our Territory that we would not need to be under the necessity at all to take financial consideration, I would then say let the agricultural college be separate, as for instance the celebrated school of forestry in Saxony. It is attended by students all the way from Lisbon to St. Petersburg, from South America and Australia. They gather from all parts of the world to that institution, entirely separate from the university, but the government never considered the expenses that it took. It simply established them. It could not have attained to that distinction if it had been united with some university; but we are not under that condition. We have to consider the financial conditions of our people, and I am a strong advocate of a union of the university with all these institutions. I sustain the position of Professor Kerr entirely.

Mr. EICHNOR. May I ask Mr. Evans, of Utah County, a question?

Mr. EVANS (Utah). Yes, sir.

Mr. EICHNOR. Where is the university to be located when the two institutions are to be united?

Mr. EVANS (Utah). Wherever this Convention decides. If they decide they shall be united first, then they shall determine the place afterwards.

Mr. LUND. Mr. Chairman, I sincerely hope that the amendment striking out the words "agricultural college" will prevail. They are separate institutions. They are under separate boards and they have separate objects and ends and aims in their instruction. The agricultural college in its instruction is preparing its students for industrial professions—for trades. A few years ago, in this country, it was seen by those who were educating the youth of our land that there was a great wrong in the idea of education and it was this, that all who had a chance for any higher education or other education than the common schools aimed at professions. They desired to be lawyers or doctors,

or professors of some kind, and they thought it eminently necessary to establish these schools throughout our land, where the trades would be made a little more popular than they are at present or than they were at that time. And if you will notice all of our tradesmen nearly that we find, the tailors, the blacksmiths, etc., are men that come to us from Germany, from England, and from places where these trades are more popular than they are in the United States. When the Legislature established the agricultural college, it did not see fit to place it alongside of the university, and the reason beyond a doubt was that if it was placed near the university, and especially placed under the same board, under the same supervision, the object of the agricultural college would be thwarted. Students would not be prepared for their trades, but they would be prepared for the university. I do not think that we need any more broadening influences to be brought to bear upon these students who are in that education than those that are taught at the agricultural college. If you will understand it, German, music, and languages of different kinds and a great many branches of higher instruction are given already at the agricultural college. I believe that by the union of the two we will thwart the object for which the agricultural college was established, and consequently, Mr. Chairman, I am very much opposed to their union.

Mr. RICKS. Mr. Chairman, this question seems to be of very great importance and one that we ought to consider very fully before voting upon. The question of union was fully discussed in the Legislature last winter, and after it had been discussed and investigated from every point of view the Legislature decided that it would be unwise to unite the institutions. I will read an extract from the report of the board of directors of the agricultural college that was made at that time. (Reads.)

Now, Mr. Chairman, it seems to me that much of the arguments of the gentleman from Cache would have no weight with this assembly. There is one point that he refers to in connection with the Cornell university that seemed to me to be the strongest argument that he made in favor of the union of these institutions that I think should be ventilated a little farther. He conveyed the idea that the agricultural college of New York was similar to the agricultural college of Utah and was attached to and became a part of the Cornell university. Now, Mr. Chairman, that is not true. The agricultural college of New York is a part of the university at Ithica, but it is not an agricultural college in the sense that the agricultural college of Utah is an agricultural college. The college department at Ithica only relates to agricultural training, and the other trainings such as is taught in the agricultural college at Logan is taught in the other departments of the university at Ithica, so that really the whole institution at Ithica is just exactly in the same ratio and in the same line that we desire the agricultural college of Utah to become when the finances of this State will justify a college of that kind. So, Mr. Chairman, the associations and the benefits of associations with other students and the broadening of the minds of the agricultural students and the other students in Cornell university can be accomplished at the entire university at Ithica, New York, to-day. There is another point that seems to me ought to have greater weight with this assembly than any other. As has been stated by the gentleman from Sanpete, in the agricultural college industrial classes or studies predominate. It was the hope when the Legislature created that institution to make it a school for the industrial education of the masses of the people of this Territory. They believed that in locating it in an agricultural district it would be better adapted to the accom-

plishment of the desires which they wished to accomplish, and I believe, sir, that every gentleman upon this floor, especially those from the country districts to-day, if he had a son to put into a college he would put him into a college, not only where he could learn English, literature, science, and the other branches of what may be called a classical education, but where he could also acquire an industrial education, so that when he went out again into the world, he would be able, if he failed in one branch to succeed probably in another. Suppose, sir, that if a hundred graduates from the university of Utah as it is to-day, were to be turned loose upon this community and another hundred graduates of the agricultural college, where they had received an industrial education, they understood mechanism, they understood agriculture, they understood blacksmithing, shoemaking, and carpentering, and all the various branches of an industrial education, which one of those two hundred students would be of the greatest value to this commonwealth? Would it be those that had received no training except a classic education, or would it be those who had gone through all the departments of an industrial education? I say, sir, that the value of the industrial education would be incomparable in comparison with the other, to a community like this is at the present time. It has been stated that to-day we are educating none in the industrial sciences, but on the contrary, every man that we want to fill a position as a machinist, as a carpenter, as a shoemaker, is brought here from some other place—probably some of the old countries. In twenty years or fifty years from now, if this condition is to continue, we will find in Utah a dearth of that kind of material in our commonwealth. They are the wealth producers of the country, and unless we do something to encourage them and to maintain them in our community, I will tell you, gentlemen,

that we will become poor indeed. Now, as regards the financial standing, I believe myself that in our present state of finances that we ought to be economical in every department, as economical as we possibly can be and not destroy the efficiency of our schools, but I believe, sir, that with the advent of statehood, we will be made able to maintain and build up the institutions, so that they will be of great value to this State from the funds that will be made available to the new State. The agricultural college will receive two hundred thousand acres of land. A movement is on foot now to have Congress allow that land to be sold or reserved to the State out of the Uintah and Uncompahgre reservations, when they are thrown open to settlement. If that is so, we would be able to receive from them two hundred thousand acres of land, of at least five dollars per acre in value. It will at least be able to sell for that amount. That would bring a fund of one million dollars which, invested at the rate of five per cent., would bring a fund or an interest of fifty thousand dollars a year to the State institutions. The agricultural college received from Congress twenty thousand or twenty-one thousand dollars this year, and in two or three years it will have reached twenty-five thousand dollars a year. They received from other sources several thousand dollars a year which would aggregate altogether at least seventy-three thousand dollars a year. a fund entirely adequate to pay all the expenses of that institution and make it self supporting and put it upon a level and in fact somewhat in excess of any of the institutions of this entire intermountain country. I believe, sir, that the fund that the university of Utah will receive from the sale of its lands, which undoubtedly will be reserved, that a fund will be produced or obtainable, which will be able to maintain that institution—that is, especially the university part of it, which I understand at

the present time has only thirty-one students, and at least the fund of fifty thousand dollars a year ought to go to maintain the thirty-one students of the higher education, that has been spoken about by the gentleman from Cache, for many years to come. The State normal school and the school of mines have each an endowment of their own, which will maintain them without any help from the territorial treasury, and I believe, sir, that it will be good policy on the part of this Convention to locate permanently—I do believe, sir, that they ought to be located permanently, so that this fight and this uncertainty may be settled, but I believe, sir, they ought to be located permanently and maintained separately, and I believe that this growing State will yet be able to maintain two institutions, one of the higher learning, where our sons and our daughters can receive a classic education, if they desire, and one independent and separate, where they can receive a collegiate education and an industrial education also.

Mr. KERR. I understood you to state that the statement I made with respect to the agricultural college in New York was not true.

Mr. RICKS. No, sir. I did not make that statement. I said that the impression that had got out here was not correct, from your statement. Your statement would convey the idea, sir, that the agricultural college of New York was similar to our agricultural college and had been united to the university at Ithica, but the agricultural college at New York does not comprise the departments that our agricultural college does.

Mr. KERR. Pardon me, perhaps I misunderstood. The fact is that the agricultural college of Cornell university is the one founded by the Morrill bill, just as ours is, and the studies are agriculture, mechanical arts, and so on, just as they are here. They are identically the same.

Mr. RICKS. That is correct, but we have added to our agricultural college departments not embraced in any other agricultural college.

Mr. KERR. I have only one object in this and that is to be absolutely fair. I do not think that we should have a wrong impression get out. Did you state that there were only thirty-three students in the college?

Mr. RICKS. No, sir; in their collegiate work—the educational work. I think it was thirty-three last winter. What it is now I am not able to say, but somewhere near thirty.

Mr. KERR. Do you mean by university work, work which is a post graduate work?

Mr. RICKS. I mean the higher education.

Mr. KERR. That then includes all students in the college?

Mr. RICKS. No, sir. I understood there was a difference between the higher education and the college education.

Mr. KERR. By using the word higher education, I had reference to all collegiate education. We have elementary education, including kindergarten, primary, and grammar grades. Then we have high school and academic education, including the next four grades, and then a collegiate education. A university is an assembly of colleges. That is the way in which I use those terms. That is why I asked the question so that I may not be misunderstood.

Mr. CANNON. I desire to ask Mr. Ricks a question. I understood, Mr. Ricks, that you stated the number of students doing university work was thirty-one, at the university. I call your attention to the fact that the students of the university number 449. I desire to know how you classify them and why you should make the distinction you do—upon what ground do you make such a distinction?

Mr. RICKS. I hold in my hand the classification made last winter in the report of the regents of the university:

Juniors, 24; sophomores, 14; mining students, 9; normal students, 217; preparatory students, 49.

Mr. CANNON. I call the gentleman's attention to the fact that there is nothing there that states that these normal students or others would take a collegiate course. As a matter of fact, I was informed myself the other day that 75 of the normals were taking college or university course.

Mr. RICKS. I understand that the normal department is entirely a separate and distinct institution, and while they are taking college courses, I understand that the university students, before taking the higher department, which I understand would be above the normal grades, would only be about thirty-two or three students. I am not posted enough to know anything about that.

Mr. CANNON. I do not wish an erroneous impression to get out concerning that, because it is not true.

Mr. GOODWIN. Mr. Chairman, I thought when Professor Kerr finished his argument that that settled the question. I did not think any gentleman here would have the hardihood to get up and propose anything different in the matter of connecting these two institutions. The truth is this, there is a great staff of professors at the university; there is another great staff at the agricultural college, and they are teaching precisely the same science almost. That is, through nearly the whole course of education, it is exactly the same. Why they should be in two separate institutions in as economical a State as this is going to be under the guidance of this Convention I cannot understand. I see a little cropping out of old fashioned prejudices here. For instance, the higher education that is referred to as the university course in contradistinction to the course in the agricultural college. In point of fact the agricultural college ought to be the higher institution. That is the institution that comes nearer imitating the Creator than

any other; if we believe the good book the Creator has been engaged in making worlds for years. There is no record that he ever studied Latin or Greek. There is no sense in the world in separating these institutions in our country. There is every argument to show that they ought to be together. A great many boys go to school intending to take a scientific course, others go intending to take a classical course. When they get there, they find that they have not the aptitude to follow out what their mothers or their fathers or some other relation intended they should follow.

It is perfectly natural for a pious old lady who has a son to think first that her son is the smartest boy in the world. Second, that if the right thing is done, he will be made a clergyman, and preach salvation to a sinful world all his life. He gets to the school, they give him the classics to study, and he sits and feels like a fool, looks like a fool, and wishes he was dead for four years. He finally works through because the old lady saves her means and pays his way and then he is afflicted on some community to preach. The result is that that community grows wickeder every day [laughter], while he wades through a couple of hours from first to sixteenthly. I do not believe there has been a greater mistake in handling of this university than in religion of that kind, and if paradise is to be an eternal continuation of that, they had better take the other chute. But that same boy can take a shingle and a jack knife and in half an hour can have a water wheel running in the ditch and enjoy it, and all the boys gather around, and all the girls, and they admire it, and the notice was given right there that that boy was intended to be an engineer, that instead of trying to save souls that are not worth saving, he ought to be handling nature's great forces. Now, you group these boys in a college or

university where all these things are taught, and the boy will get the right place before he has been there a year. Then the only real difference in the education is to direct the brains of boys in the channels where they can be of use to this world. Again, the expense is the thing we have got to consider now. We cannot increase the indebtedness of this State more than two hundred thousand dollars. I expect my friend from Utah will still ring in a little proposition to reduce that seventy-five per cent. There is no sense under those circumstances to keep employed three or four staffs of learned professors. There is still another reason. A man is nothing after he loses his self respect. A school is nothing unless it can command the respect of the people about it, and of the State around it, and the parents of children, and the children themselves. We are told that the boys and girls in this Territory are going east and west to obtain education. That is true. I know some gentlemen that would gladly educate their children here, but they have the impression that the education is slipshod; that it is not on high ground, that it is not the higher education, and that all comes through poverty. You know, Mr. Chairman, that if you were the brightest man in the world and were to make a business suggestion and the gentleman beside you had ten millions of dollars and was to make a business suggestion, the rule of the world is to put such men as you aside and to believe the man beside you because he has a metallic backing. It is just so with schools. I think there are some people that always will be sending their children away, but I would like to have established in Utah an institution that the people of the east would send their children here to be educated, considering the climate, considering the capacity to study in this air, considering the reduction in the risk of disease, and it

is that kind of an institution I want to see builded up, and I want all departments in it to be complete.

I know several gentlemen who I believe are going to die one of these days, although they have given no signs of it yet. I believe some of them have no children and that there is growing up in their hearts a belief that the possession and accumulation of money amounts to but very little after all, unless it can be put to some use. I believe they will begin to endow the university of Utah after awhile. We want to only get it off its wheels and get it on a firm foundation. I have in my mind's eye one now that I know is hesitating where he will put his money and it is a very large amount. It is enough to build a great university, and I believe if this thing could be settled and the right idea could be put before him, that inasmuch as he made his money in Utah he ought to build for himself a monument here; we would hear from him, if not in this life, after he has left it—one of those post mortem communications which are pleasant to receive from these crusty old fellows, who are not much good in this world, but prove after awhile that their work is not in vain. If I had my way, I would put an inheritance tax in this Constitution, so that when that sort of men die in this country and left no families the State would stretch out its hand and say, "we protected you while you were making your fortune. We have been charging you up what is due on your insurance, and we want such a per cent. as will educate our boys and our girls, and for the current expenses of this State, where we can make no indebtedness." So my judgment is that if any gentleman here undertakes to dispute the ground that Professor Kerr laid down so strongly, the sergeant-at-arms ought to be instructed to take him out [laughter], with the single exception of (his normal school. That is not in its true sense a higher education. That simply is utiliz-

ing the education already obtained, and hence when it comes, I propose to strike out the State normal school, in line 5, and add it to line 8. It will cover every present emergency and give the Legislatures of the future a little chance to act. I do it for the purpose of giving the Legislature by and by a little something to do, because I am satisfied that when we get through here, for the next eight or ten years all that the Legislature of this State will be able to do will be to pass an appropriation bill. I hope this amendment of my friend from Utah will not be entertained. I have been watching him, Mr. Chairman, and I do not wish to be personal, but of late I have taken him as my guide on most measures, to find out how he stands, and then, in the language of a certain class of gentry who follow a profession of which I know nothing, "I copper it." I am going to copper the amendment of my friend from Weber and then I am going to urge mine.

Mr. CREER. Mr. Chairman, perhaps the gentleman may call upon the sergeant-at-arms to put me out, but for all that, I desire to say just a few words on this proposition. The gentleman stated that he did not see how any person could propose anything different. Now, I do not know whether the gentleman was a resident of Salt Lake City at the time the agricultural college was located at Logan or not, but I do know this, that there was not a sentiment, there was not a single word from any member of the Legislature that proposed at that time to have them united—the university and the agricultural college together. Nothing that came from the professors of the university. There was nothing that came from any gentleman of Salt Lake City or elsewhere as to the locating of these educational institutions separately. And it seems to me, Mr. Chairman, that it is a great reflection against the intelligence and judgment of not only that Legislature, but subsequent Legislatures who

have voted a great amount of money that the gentleman has indicated here in his speech to-day for the establishment of these institutions. I do know distinctly one thing, the father of the gentleman, Mr. Lund, from Sanpete County, was the chairman of that committee, and he distinctly portrayed to the Legislature the object of the agricultural college, which was to introduce and to cultivate industrial and mechanical arts distinct from the higher branches of education. If that has been a failure why then has the Legislature from time to time appropriated so much money for the establishment of that grand college at Logan? While I listened very attentively to the intellectual speech—but it is on just such speeches as this that we have appropriated hundreds of thousands of dollars in this Territory, until to-day we are involved by these useless appropriations, and I would be pleased if I could conform my judgment to the sentiments of the gentleman from Cache, but I cannot in view of past experience, because it does seem to me that it would cost a great amount of money to unite those branches of education together. It is simply following up in the same line which you have been going right along—simply make experiments. Perhaps after they had been united for some time then they probably would not work satisfactorily and from a financial standpoint—I have seen some of the results from the agricultural college. We have had citizens go to that from our town, who have returned greatly benefitted. I am satisfied, so far as I can see from results of the labors and the management of that agricultural college, but I do not propose to cast my vote in favor of uniting them and expending a great amount of money, it seems to me, for a useless purpose. I believe that they should remain as they are to-day, and it seems to me that going back less than a decade—only 1888, there are two members on this floor that were in the

Legislature at that time, and not a single sentence or voice was raised against establishing that independent from the university. The same reasons then it seems to me would appear as do now. Therefore, I shall sustain the amendment.

Mr. PETERS. I would like to ask the chairman of the committee on education a question. It is in connection with the Enabling Act, section 8. The idea with me was whether this grant would follow, providing that the union of the schools was made and it was known as a university?

Mr. PIERCE. I do not think there is any trouble there. The idea of a university is that it is composed of the various departments. The university itself is the combination of colleges. The agricultural college is one department; the school of mines is another department; normal school is another department; the psychical and scientific school is another department and, whatever they are. The fund derived from the sale of the land appropriated for the agricultural college would be devoted especially for the building up of that department, and all united on the same site so that, as Professor Kerr said, it will enjoy the benefit of the library and course of instruction.

The committee then took a recess until 2 o'clock.

AFTERNOON SESSION.

The committee met pursuant to adjournment at 2 o'clock.

Mr. SQUIRES. Mr. Chairman, I listened with a great deal of pleasure this morning to the eloquent speech of the gentleman from Cache. I was charmed by the graces of oratory and delighted with the argument presented, but not convinced. I am not as well assured as the gentleman is that we should do wisely disturbing the present condition of the university and agricultural college. There are many questions that go to make up this case,

as I understand it. I believe with him in a higher education. I come from a state which I believe is one of the best examples that can be furnished by any state in the Union of the advantage of education to its people. The state of Massachusetts has a system of education which I believe is unparalleled in all the states of this Union. We have an agricultural college and we have a college of higher learning, but the two are kept separate and distinct and my own belief is that it never was intended when agricultural colleges were first established that they should be attached to universities or to colleges where the classics are taught. I believe that the intention of those colleges was to have a school for the common people, a school where education, as indicated by the title, could be acquired, without the time of the student being taken up in the study of what is known as the higher education. I still believe that that is a fact. I believe with the gentleman, however, to this extent, that if we were just about starting, if no provisions had been made for an elaborate site and an elaborate plant for an agricultural college, in one section of the State, and a long tried university in another section of the State, that it might be wise to so consolidate these institutions as that if they were not to be upon the same site they might be in the same community, and under the same general guidance and direction.

There is one reason which has come under my observation and especially in connection with the schools the gentleman spoke of so eloquently this morning, the agricultural college at Cornell university, at Ithica, New York, and that is that the students at that university, who go there to take the agricultural course, are looked down upon with a sort of scorn and contempt by those who are there for another purpose, in the pursuit of higher studies, and there is not that unity of feeling between the agricultural students and

the other students of the university, which the gentleman would lead us to believe. I do not think that the association of these students with their fellows would broaden them in that social sense of perfect community and harmony of feeling. I know that when that college was first started that was one of the great objections had against a young man going there to acquire an education, that it required a great deal of moral courage to go there and face the contumely and contempt which was showered upon those students by their associates in other branches. However, if we were about starting—if we had no college and no university, I might favor the location of these institutions, as I say, in the same community; even then I should want them separated, and only placed under the general control. As we are now situated, however, we have, at a considerable expense, established a magnificent institution in Cache County. The gentlemen of this Convention who visited the institution the other day must have been impressed with the fact that with no niggard hand has the foundation of that college been laid. There is no parsimony in the manner in which it has been prepared for the work of usefulness which is before it. Something like one hundred and fifty thousand dollars, so I was told by the president of the board of trustees, has already been expended there upon the main building, and the other necessary buildings upon the grounds. I am not prepared, Mr. Chairman, as the gentleman from Cache indicated this morning, that he was, to pass upon the question first of union without considering what that union might entail upon this State in the way of cost. A union of these two institutions in Salt Lake City would simply necessitate the giving up of the great plant which has been prepared at Logan. I am informed that the title to that plant is in the city of Logan. The ground upon which the buildings have been placed is in the

city of Logan and the county of Cache, and a serious question might arise if any attempt was made to use those public buildings for any other purpose than for the purpose of an agricultural college and an experiment station. I believe it would be a practical loss to the Territory or the State, that there would be no power in the Legislature to sell these buildings, to convert them into cash, for the purpose of removing the college to another section of the State. On the other hand, we have a building here in Salt Lake City, which probably will answer for all the purposes of the university for some years to come, or until a proper plant can be placed upon the sixty acres on the eastern edge of our city.

Now, Mr. Chairman, I believe that an agricultural college should be located in an agricultural community. I believe that if we should place this college now upon the grounds indicated in the eastern portion of this city, during the next ten years the city would so grow up around that college that we should have that anomalous condition of an agricultural college situated in the heart of the most populous city in our State. I do not believe it would be wisdom to do any such thing as that. On the contrary, I am not in favor of sending the university, which is now located in Salt Lake City, so far away from the center of population. I believe that the university, as it is now situated, is properly located. I believe that it belongs right where it is in Salt Lake City, and therefore, I am in favor of having it remain there. The original purpose, as I believe, of the agricultural college, was to educate the sons of the common people in the mechanical arts, in a knowledge of farming, and of irrigation, and of all those things which go up to make the successful agriculturalist. If we have strayed away from that first principle, if we have undertaken in our college in Utah to combine that course with a classical course, then I believe we are

doing what was not authorized or intended when the college was established. We have furnished or do furnish in this article a system of common schools in this Territory, up to the grade of a high school, which will furnish the ordinary young man or young woman with all the education that they will need in any walk of life which they may be called upon to fill. In addition to that education, which comes through the common school and the high school, the son of the farmer, the son of the mechanic, may go to the agricultural college and acquire a still further practical knowledge of the affairs of life. It will take the place to them of the old system of apprenticeship, that used to be in existence in this country, but which, I believe, under the prevailing influence of the knights of labor and other labor organizations, has been practically blotted out, and in these days it is very difficult for a young man to go and get through the ordinary avenues of trade and practical knowledge in any mechanical pursuit. I believe that that is the intention and purpose of the agricultural college, and I do not consider it is necessary to attach an institution of that sort to the university. The university will be complete without it. We have a number of institutions of learning in these United States, whose fame is world wide, whose influence for good, and for the educational interests of this country is well established and well understood, and they do not seem to need any agricultural colleges connected with them to make their course of higher education complete. I do not understand that it is necessary or essential that we should add the course of agriculture or mechanical school to our university course here.

Let me ask, gentlemen of the committee, what is going to be the expense of building upon the sixty acres suggested for this combined plant in Salt Lake City of an agricultural college and

university, with all the different schools that would in that plant be provided for? We are limited, as has been said this morning, by articles of the Constitution already adopted, to two hundred thousand dollars additional indebtedness for any purpose. Does any one think that we could go to work and build a suitable building for this combined purpose for any such sum as that? I doubt whether it could be accomplished, and until I can see a way wherein that appropriation can be made or those buildings put up, I should be very averse to any change whatever.

A great deal was said this morning about the cost of maintaining these institutions separately, and I understood the gentleman from Cache to make the statement that at least thirty thousand dollars a year would be saved to the Territory or to the State in case a consolidation could be effected. I cannot quite see where he gets his figures for a saving of thirty thousand dollars a year. I hold in my hand, Mr. Chairman, the report of the board of trustees of the agricultural college for 1894, in which, upon page 8, an estimate is made for the expenses of the college for the biennial period ending December 31, 1895.

Mr. KERR. If the gentleman will permit me, I would like to state that in answer to a question by the gentleman from Salt Lake, Mr. Goodwin, this morning, I said the amount that would be saved each year would depend entirely upon the amount appropriated to these different institutions. If the institutions received a small appropriation, the saving would be small; if a large appropriation, the saving would be correspondingly large, and I stated that if the institutions had one hundred and twenty-five thousand dollars, the approximate saving would be about thirty thousand dollars, but it was based upon the amount that the institutions would receive.

Mr. SQUIRES. Based on an appropriation for the two institutions of one hundred and twenty-five thousand dollars a year?

Mr. KERR. Yes, sir; if the institutions were united, they could do as much on twenty-five thousand dollars appropriation as they now do. By uniting them, we could do practically the same work for ninety-five thousand dollars, that is the estimate.

Mr. SQUIRES. I want to get at the actual cost of running this agricultural college. I want to understand, if I can, how heavy a burden it has been or is likely to be upon the coming State. This estimate which I hold in my hand calls for two years' expenses, amounting to \$46,448, that would be \$23,224 a year; but I notice, Mr. Chairman, that in this amount a great portion of it is for the purpose of supplying apparatus, furniture, building of a propagating house, for testing machine, for machinery, and supplies, for mechanical engineering, for the museum, for the library and reading room, for cases for the museum, for bath rooms, for students, for miscellaneous funds, for painting, and sundries, stand pipe and hose, electric lights and telephones, so that less than half this amount is really appropriated for the regular expenses of such an institution. The salaries of teachers, only twelve thousand dollars. Expense of the board of trustees, three thousand dollars, including the clerk, foreman, janitor—thirty-five hundred dollars, and for printing catalogues, reports, and stationery, one thousand dollars. I venture to say that every other item in that report is something which is not an annual expense. I understand also that in spite of the estimate made by the board of trustees, the appropriation was made^b fifteen thousand dollars for the two years or seventy-five hundred dollars a year. Now, I do not consider that that was a very great burden upon the State. I do not consider that that would be any great

hardship upon this people. I do not see where the argument for economy is going to come in provided we hold this institution to the purpose for which it was created, and any attempt to establish a classical school there, as well as at the university, which may be located somewhere else. I am not in favor of wiping out one hundred and fifty thousand dollars' worth of property in order that my friend from Cache and other advocates of a higher education may have their particular fad introduced into this Constitution and perpetuated upon the new State.

Mr. THORESON. Mr. Chairman and gentlemen of the committee, I am opposed to the union of the two institutions. I favor the motion to strike out the agricultural college in the section now under consideration. I always have been told from childhood up—in the first place by my parents and later by a great many good and wise men, to always let good enough alone, to leave that which is prospering to leave it prosper and not disturb it. We have an institution in the county from which I come and represent in part, that is a flourishing institution, that is a credit to our Territory, and will be to our State if it is let alone, an institution—the agricultural college—that in its growth is superior to any agricultural college in these United States, that is popular—not only in the State of Utah or the Territory of Utah, but in all the surrounding states and territories. The information and the knowledge that has been obtained through its experiments and through its advancement has reached thousands upon thousands of the households of the farmers of this intermountain region, and even gone back into our eastern agricultural states, for their benefit.

In what few remarks I make I want to come down to the practical workings of this institution. I have held a position in that county of surveyor during a period of two years. During that

time, students from that college time and again would say, "Can't we go with you out into the field and work?" They are not of the kid glove fraternity, but they wanted to go right down and learn the practical workings of their education, and they were willing to go with me out in the field and drag chain or do any other work. I have watched the mechanics in their labor upon buildings, I have seen them enter shops and have carefully watched the mechanic in his handling of tools and in producing the results of his avocation. I tell you, that it is an institution that nine-tenths of the people of this Territory and the surrounding territories demand and want. At the time that this institution was located, it was not then considered of very great value. The people then of Salt Lake, and the people of this entire Territory looked upon it as an inferior institution, and almost any county in this Territory could have had it.

Mr. EICHNOR. May I ask the gentleman a question? Is Salt Lake County trying to take the college away from Cache County?

Mr. THORESON. Yes, sir. I will answer you plainly, that I have heard many men state that if it is a union, it means a union in Salt Lake. I am talking against that proposition. It means taking away from that county or the disturbing of that institution, which has been located there by the unanimous consent of the people of this Territory. I talked to the governor in this Territory at the time that bill was passed. I have talked with several members of the Legislature, at the time it was located and established. There was not an educator in the Territory, or legislator, or a statesman, but what said it ought to be separate and apart from the university of the State, and I tell you now, gentlemen, and I think that the facts will bear me out that there is not a farmer in the Territory of Utah that would send his sons and his daugh-

ters to this city or to any other great city for the purpose of learning them agriculture or giving them an industrial education. At least, it proves to the contrary, they do not do it, and I want to tell you, furthermore, the results of the union of the two institutions would be putting the agricultural and industrial departments in the shade, because they would look up to those that were further advanced in the classics—in the higher education, and when they come into cities of this kind, they will look to the seniors in the institutions of learning and they will follow them in the fashion, and they will follow them in all their advancement and they will forget from whence they came, and when they return to the old homestead, they will be worthless to their fathers, that expect them to go out into the field and earn their living. They would be spending the money to the disadvantage of the aged father that expected support in his old age. I tell you, that institution up there is making men, not dudes, and I tell you it ought to be left just where it is, and it ought to receive the small pittance and the continuance of it that it has for the last few years. We do not ask for the university; we do not ask for any advancement; we are perfectly willing to take the natural advancement that we have had for the last few years.

We will promise you, gentlemen, if you let us alone and continue appropriating the small pittance, or a little advancement, if you can afford to do it, we will make an institution there of which every member on this floor will be proud, inside of five years, and I tell you that the entire State and surrounding states will be proud of that institution. I believe that the gentlemen in visiting that institution—every one that I talked with, were surprised to see the results, and I tell you that they only made a beginning, but the roots of that institution have been planted and it has gathered in it the right kind of mater-

ial and is giving them the instruction they need and that the people demand. I notice on the other hand, when I meet my friends that come down to your university here—meet them upon the street, that they do not look upon labor with that respect that I desire that they should do, and am sorry to say I see them led astray under many circumstances, and I know when they return that they are not what their parents expected them to be, and I tell you, gentlemen, that we can afford to back up that which has been demonstrated by the course of the institution that I refer to for the last few years; we can afford to leave good enough alone; we can afford to continue that institution, and I tell you that the saving to this Territory, the saving of the morals, of the manhood of our youth, should be more than a few dollars' consideration, and the making of practical men that are interested in the mechanical pursuits and in the industrial pursuits, in the improvement of the farm, of the home, and the building up of our new State and industries thereof, are the kind of men that we want to make, and we do not need so many with a classical education, and in fact we do not have them. I am informed here that a student will be taught in the institution of high learning in this Territory—students are being taught Greek by a professor receiving twelve dollars per day. I do not know whether that is backed up by facts or not, but I am informed so. Gentlemen that are taking the other side can perhaps prove to the contrary. I met a gentleman on the street during the noon recess, and ascertaining that I was a member of this Constitutional Convention and that this subject was before us, he said, "Our state, the state of Ohio, had such an experience. We once had an agricultural college of which we were proud, but we amalgamated with the university and our farmers now send their sons away to get an agricultural or in-

dustrial education. They come back and say that there is no such thing connected with that university. It is entirely gone."

We find them in Idaho similar. The two institutions have united. What is the result? Why, they have neither, and to support the higher education of that state it is rumored that they have to take the money appropriated by the general government for agricultural pursuits and for the agricultural college of that state, and that they are now liable to lose the support the general government would have continued to give them, had they kept the institutions separate and apart.

We find in Wyoming, where the union has taken place, what has been the result. In the last Legislature a bill was introduced to separate them, that the one might not overshadow the other and ruin it. These are the conditions of things. Go to the great institutions of the world or even of this country, outside of Cornell, what do you find? Do you find an agricultural college attached to any of the great universities? I say no, you do not find them encumbered with it, and they did not want it a few years ago. It seems to me, gentlemen, the growth of this institution is the enemy of some certain agitators in this Territory—the growth of the agricultural college, and they think that by its growth added to the university in this city that they could compete with the great institutions of learning in the world, but I am afraid, gentlemen, that we cannot carry the burden. I am afraid that we cannot undertake the job, and I do not believe that for the next twenty, thirty, forty or fifty years, we can either united or separated compete with the great institutions of learning in the east, and I say if we encumber the university—the educational institute with agricultural colleges and with all these other things, we will get an animal upon our hands that we cannot handle at all. I say, gentlemen, let us

consider the things in which we find ourselves. Let us look at this from a practical standpoint. We have an institution that is progressing gradually, that is growing in influence and popularity, and that is doing a good work, and at a limited expense, and now let us leave that alone, let us continue its good work, as it is, and we will all be satisfied.

Mr. KERR. I would like to ask the gentleman who has just been speaking, if it is not true that the agricultural colleges of the states of Illinois, Wisconsin, Nebraska, and Minnesota, are connected with the universities? I understood him to state that in no institution in the United States, except Cornell was such the case.

Mr. THORESON. I made the statement of the prominent universities of this country and also the old countries, that such was not the case, that they were not united except Cornell.

Mr. KERR. Is not the university of Nebraska prominent?

Mr. THORESON. No.

Mr. KERR. It spends two hundred thousand dollars a year for its work. The university of Wisconsin at Madison is one of the leading universities of the United States. The universities of Illinois and Minnesota are also among the leading institutions.

Mr. THORESON. Will the gentleman allow me to answer him? I will name some of the institutions that do not have agricultural colleges connected with them: Oxford, Cambridge of England, Edinburgh, Leipsic, Berlin, and Paris, and American institutions of Harvard and Yale.

Mr. THATCHER. Mr. Chairman and gentlemen of the committee, I have no notion of attempting to discuss this question at length for I neither have the strength nor have I devoted the time necessary to a lengthy discussion, but I shall vote for the amendment to strike out the words, "agricultural college."

What I desire to say more specifically

upon this point is that I do not think my friend from Cache Valley represents the feeling of the northern delegation. As I understand matters, when the agricultural college was first established, it was accomplished by the generous vote of the majority of the delegates from Salt Lake County. I may be mistaken in that, but I do not think I am, and in giving the location of that college to the north we had also the generous vote of delegates from the south and from the west, and while I do not believe that my colleague from Cache County intended to throw reflection upon those who have thus treated us generously, unfortunately, his language would be subject to that interpretation, I desire to say to this honorable body and to you, sir, Mr. Chairman, that I do not endorse sentiments of that kind. Indeed the people of northern Utah have very greatly appreciated what was done by the action of that Legislature, and I have never discovered the sentiments to which he made allusion. I find the same generous and broad sentiment among the delegates of Salt Lake on this floor that was discovered in the Legislature at that time. I have found the same generous feeling upon the part of the delegates from the south, the west, and the east, and I desire to say, gentlemen, that if it shall prove to be the wish and the will of this honorable body to permanently locate the agricultural college separate from the university, we shall appreciate that act, as we have other generous acts of the same nature. If, on the other hand, in the interests of economy, it is thought to the best interests of the people of Utah that they should be united, we shall bow to the majority on that question. I was an advocate of union, but I must confess that the speech this morning of my friend from Cache weakened me slightly in his reference to the connection of the agricultural college with the university of Cornell. I apprehend now, after

these references have been reviewed, that the dangers pointed out by the delegate from Salt Lake (Mr. Squires) are very grave. I have known men who would face danger and death in every form without a blanch upon their cheeks, or without a quake in their knees, that would go like whipped curs under the infliction of a sneer, and I now have grave doubts as to whether the farmer boy whose face is blacked with the smut of the forge would feel very much to associate with a son of a rich man, who, as my friend on the left referred to, has the cut and fashion of the dude—whether that would encourage that which we want in this Territory, industrial, agricultural education. This, gentlemen, is all that I feel that I should say upon this matter. I am connected with the university of Utah and my sympathies are with it. Much means have been expended upon it since the year 1850, and I have expressed on several public occasions that which was expressed by the honorable delegate from Salt Lake (Mr. Goodwin), this morning, that I hoped to live to see the time when we should have educational institutions in the new State that would draw from the east and the west, that our lovely climate and health giving location would draw that class of students and make Utah foremost as an educational centre. First then, after all the arguments that I have heard I am in favor of the agricultural college where it is, and I am in favor of building up the university of Utah in this city, if this body so desires, and so expresses it by their vote, until we shall make it worthy of the name of university.

Mr. RICHARDS. Mr. Chairman, I have not had the advantage of hearing all that has been said on this question, but while the speeches that I have listened to have been very interesting and instructive, it seems to me that we are spending time in discussing a question that ought not to be before this

Convention. I do not understand that a motion to strike out would now be in order. If it were, I should move to strike out section five, because, as I understand the duties that devolve upon us in the forming of this Constitution, this is a matter that ought not to be incorporated in the Constitution, and whether the majority of the members of this Convention believe in union of these institutions or believe in the separation of the institutions, it matters not to me. I do not know what the consensus of opinion of the Convention is in relation to the matter, but I think I do know that it does not belong in this Constitution. It is unusual. I have looked in vain in other constitutions for this kind of legislative matters. It is usual and proper that such institutions as these should be provided for and that the maintenance of them should be arranged for, but to determine whether they shall exist as one institution or more, where they shall be located and things of that sort, they belong pre-eminently to the legislative body, and I think, gentlemen, if you will examine the constitutions of other states, as I have done, you will find that those constitutions are silent upon these questions. The delegate from Cache, who recently spoke, called attention to the fact that the union of the university and agricultural college of Wyoming was not working satisfactorily, and that a proposition was before the legislature to have them separated. Now, this is a question that ought to be left to the Legislature. If it is desirable to unite these institutions, let the Legislature unite them, and then if it should become desirable at any time for them to be separated, they can be separated without going through the long, tedious form and expense of procuring an amendment to the Constitution. I say, gentlemen, that this matter has no place in the Constitution of this State. I say it ought not to be there. I say that if

we put it there, we hamper the Legislature, we undertake to look forward ten, fifteen, twenty, or fifty years, and determine what the good of this State may be. How do we know but what in the next ten years our population may increase ten-fold and the conditions existing then may require an entirely different management and arrangement from that which would seem wise and proper to us to-day? And so, without entering into the question as to whether these institutions would be better united or separated, I say that that section ought not to be there, and at the proper time I shall move to have it stricken out.

It does seem to me that if you gentlemen concur with me in this view that this time, however pleasant it may be and however instructive it may be on general principles to listen to the arguments and speeches which the gentlemen are making, and which are very interesting and instructing, still, it seems to me that it is not proper at this late period of the existence of this Convention to indulge in such discussion, if indeed we do not want that matter in the Constitution. And I say we do not. No matter what the opinion of this Convention may be on that subject, whether it be for union or division, it ought not to be there, but it ought to be left to the Legislature to determine this question from time to time as the benefit of the State at that particular time may require. If it comes to a vote on the question now before the Convention, I shall vote for striking out the words "the agricultural college." Because I am not prepared to say at this time, it is best that these two institutions should be united. I doubt very much if the majority of this Convention will say that, but I say we ought to be silent upon the subject and say nothing, and therefore, this provision ought to come out eventually.

Mr. RALEIGH. Mr. Chairman, the institutions, as I understand it, that

have been established in this country have been located by men of judgment, intelligence, and understanding. My policy is to accord to men that have done these things all that is due to them for establishing these institutions, and while it is understood most distinctly by almost everybody I suppose that if a person has a patch of potatoes in Logan and another patch in Salt Lake, and the patch is only so large as will require one man's labor, that they can cultivate it at half the price by having the two together that they could if they were separated. That is easy enough to be understood. There is where comes in this thirty thousand dollars a year that my friend has spoken of. Now, I did not have to go to Logan to understand why that agricultural college was established there and to reason in my mind why it ought to stay there. The same principle and the same hopes, gentlemen, that placed these streets in Salt Lake City eight rods wide, that everybody admire now—if they had not seen forty years ahead—if they had been here forty years ago, would have said they were altogether too wide, and they were altogether too long, the city was too large, it only required a small commercial center to start on, and then we could follow out by the cow paths and establish these things after awhile; but the same intelligence that did this one thing that I have alluded to for illustration, has done these other things that are away ahead of the times, and all the trouble is in the matter now at present, the financial condition of our people in this country, which is universal all over the United States. The trouble is we have built ahead of the times and we only need to let our buildings stand, except so far as to protect them and carry on what they will admit of—what business they will admit of, and I not only speak of colleges, the places of learning, and so on, but many other things, and wait until our financial condition becomes changed. It

will change. It is only a question of time when these lines come into market, or the results of them that we can manage, then the time will have changed so far as the financial condition is concerned, and we can carry them on separately, just as well, and to my understanding, better than though they were consolidated, and as to the remark by the gentleman from Salt Lake, Mr. Goodwin, I am in favor generally of uniting, but there are some things that I prefer to have separate, such as hair and butter, and there are some other things that will bear separation [laughter], and I believe they are situated in the right place and that if we will be patient and be economical and prudent, and these educational gentlemen will bear with a little less salary, so that they do not have to come down to raising potatoes, like some of the rest of us, I think it will be all right in a short time—two or four years at the most.

Mr. SNOW. Mr. Chairman, as a member of the committee on education, I take the ground that this matter ought to be left to the Legislature. I have never changed my mind in relation to that, and it may be principally because I did not like to meet this issue, but there are other good grounds as stated by the gentleman from Salt Lake, why this matter should be left to the Legislature. One of the principal reasons that I want to call attention to here and now is that I believe that if the delegates here will stop and ask themselves how much they know about this question, how far they have consummated a deliberate judgment upon the propriety of uniting or keeping separate these two institutions, they will come to the conclusion that they are between doubt and fear. They are unacquainted with the merits and demerits of uniting and keeping separate these two institutions. It may be true that one or two legislators who have wrangled over this question in the last Legis-

lature have made up their minds upon this question and are prepared to act, but I take it in talking with a majority of the delegates they are not satisfied in their own minds as to just what is the proper thing to do. I believe that the doubt arises principally from a question of economy, and they do not know whether it will be for the best interests of the students or not to keep these institutions separate, but the doubt, I think, will be in favor of uniting them purely from a question of economy. It is all very well for Logan to have the agricultural college and Salt Lake City to have the university, but when you come to think of saving thirty thousand dollars a year that fact seems to be almost incontrovertible when the two institutions are running to their full capacity and doing their utmost good, it is a serious question with the great majority of the outlying counties who will have to share in the burden of taxation. It is nearly the expense of the judiciary, and it is to be a permanent thing. It is the permanency of this question that I direct your attention to. If you permanently locate the college in Logan, the university perhaps at Salt Lake City—it is in the Constitution and if economy should dictate the absolute necessity at some future time of uniting them, you are handicapped by this constitutional provision. Also, you have no precedent for it, and it seems to me to be a matter that should be left to the Legislature, where they will have more time at their disposal, can get more information, and have time to mature a more deliberate judgment on the question of whether they should be united permanently or separated permanently. It is a question principally I take it, with us, of economy, and the Legislature will know more about the finances of the State and our ability and power to do than this body of men, and for these reasons I believe and am in favor of leaving this matter to the Legislature.

Mr. RICKS. I want to ask Mr. Snow a question. I would like to know how the State could save thirty thousand dollars a year by the uniting of these two institutions, when if we strike out the agricultural college altogether, the State would only save seventy-five hundred dollars, for the reason that the State appropriation for the last two years was only fifteen thousand dollars, or seventy-five hundred dollars a year? How then, could you save thirty thousand dollars a year?

Mr. SNOW. I respectfully refer your statements—the same statements have been made by Professor Kerr, who spoke in favor of union. They are not my statements. I said I qualified the same as Professor Kerr, when they are doing their proper work.

Mr. SQUIRES. I just want to call attention of Mr. Snow to an item. The Legislature appropriated for 1894 and 1895, for the university forty-five thousand dollars, for the college fifteen thousand dollars, that would be sixty thousand dollars or thirty thousand dollars for each year, and I do not see how thirty thousand dollars is going to be saved out of thirty thousand dollars, if you run either one of the institutions.

Mr. ROBERTS. Mr. Chairman, I understand that the pending amendments are that in line 4, the words "agricultural college" be stricken out, and that the blank in line 7 be filled by the words, "the same place." My understanding of the import of this amendment in line 4 is that it intends to take out what was intended to be a department of the university, namely, the agricultural college, and that of course looks to the establishment of these institutions as they exist now by law, separate and apart from each other. As a matter of theory, if neither the agricultural college nor the university exists, it would not require much argument to convince me that it would be a good thing to establish them together, but in this instance, it is a

condition that confronts us and not a theory. We have an agricultural college. We have a university, and a union of these institutions contemplates very grave financial sacrifice to the State, and I am of the opinion that the benefits accruing from the union will not compensate for the sacrifice that would be required to obtain the benefits. From this, gentlemen of the committee, it will be seen that I would favor the separation or the continued separation of these two institutions. Another proposition is that we pass by this troublesome question and that we leave it to the future Legislature. That I confess would be an easy solution of the problem, so far as this Convention is concerned, but I apprehend that grave mischief would result from the uncertainty that would continue in regard to these institutions of learning. There is nothing that can be so mischievous to either the university or the agricultural college as to continue this state of uncertainty that has existed for a number of years now and which would be agitated for years to come if left to the Legislature, and in order to be rid of this uncertainty and to fix these institutions upon a basis that they can work upon with some assurance, I think the time to settle the question is right here and right now. If we do not wish to settle it by the amendments that are now pending before this house, I think we could settle it by a slight amendment in section 4 and in such way that would remove the objections that some gentlemen have urged as to taking action on this subject. For instance, if the proposition of my friend from Salt Lake should finally prevail, and he should succeed in getting section 5 stricken out altogether, then I should favor so amending section 4 as to make it read as follows:

The location and establishment by existing laws of the university of Utah and agricultural college is hereby con-

firmed, and all the rights, immunities, franchises, and endowments heretofore granted or conferred are hereby perpetuated unto each of said institutions respectively.

I insist that this Constitutional Convention, being a representative body and perhaps more especially and a better representative body than our Legislature will be for sometime, not in the way of throwing disparagement upon future Legislatures or anything of that kind, but what I mean by it as being a more representative body, is that it is a more numerous body, and every part of the Territory is better represented as to numbers at least on the floor of this Convention hall than will be the case in a future Legislature, for sometime to come. And if gentlemen object to fixing permanently these institutions in the Constitution for the reason that other states have not done so, I wish to call attention of the Convention to at least one precedent for such a proposition as I have stated to the Convention, and that is in the state of Idaho. In the state of Idaho, language very similar to that to which I have referred as a possible amendment to section 4 occurs:

The location of the university of Idaho as established by existing laws is hereby confirmed.

We simply go one step farther when we shall say that the university and agricultural college as established by existing laws is hereby confirmed; that is, the location of the university and agricultural college is hereby confirmed. I understand the provision in the Wyoming constitution is similar to this in Idaho. It was said by the sage Franklin that two moves (that is as to your domicile or your place of business) are as bad as one burn-out. And when I contemplate a destruction of property that is involved in this question of uniting these two institutions, and when I think of Utah just becoming a State and then we undertake to destroy so much property in order to make an experi-

ment of uniting these two institutions, I stand appalled at the prospect before us. I am not in favor of continuing this period of uncertainty in regard to these two educational institutions. I am not willing to make the sacrifice of property that removal of the agricultural college from Logan to Salt Lake involves, nor to try the experiment as to whether these two institutions can get along better conjointly than as separated as they are now, and therefore shall vote for any amendments which look to the fixing permanently of these two institutions in their present locality, whether it is by amendment to section 5, or by striking it out and amending section 4. When I think of uniting the agricultural college with the university here in Salt Lake and wonder where the agricultural lands are to be found in Salt Lake or in any of its immediate environments, where you can place the boys in the agricultural college right on the farm, where by practical experiment and where by practical work they may become acquainted with that branch of industry, the greatest branch of industry, not only of our Territory, but also of our land. They have at present 108 acres of land attached to the college with an independent water right, with shrubs, and orchards, and gardens, already planned out. I understand that there is another tract of land down in the valley that has been appropriated for its use for the next twenty years by the city of Logan, and they have an institution there that has demonstrated that it is a success, and its present achievements are but promises of what it will attain unto in the future. I am sorry, indeed, that it is not located more in the center of our population, but I recognize the fact that it has a numerous population about it, and that it will draw from surrounding states and territories where it is now located. I hope, too, that such shall be our good fortune in manipulating the lands that have been

generously appropriated by the national government and by our own increase of population to make of our university here in Utah an institution that will give to our sons and daughters that status of education that shall not make us ashamed of them when they come in competition with people educated elsewhere. As to establishing institutions of learning here that shall draw from the far east and from the west and north and south, from states older than we are and wealthier than we are, that perhaps may be achieved in a hundred years hence, or fifty years hence, but I think it is possible for us to establish now a university separated from the agricultural college, which shall meet the educational necessities of our population for a long time to come.

Mr. HILL. I would like to ask Mr. Roberts, according to the figures I have before me, whether he considers the \$211,947.23, which is purported to be the valuation of the agricultural college, located in Cache, would be an entire loss if united with the university which is located in Salt Lake City?

Mr. ROBERTS. I think, sir, that it would be practically a loss to the Territory of that amount. I understand that such are the conditions upon which the lands in Logan are granted to the college, that it must remain where located. If removed from there, those lands revert back to the city or county of Cache, I do not know which.

Mr. HILL. I would also like to ask you whether for that two hundred and eleven thousand dollars, or whatever the proportion might be of loss to this Territory, the Territory could not be compensated for said loss by purchasing land in Salt Lake County, upon which to establish an agricultural college?

Mr. ROBERTS. I understand that the Territory would have to purchase its lands in Salt Lake County or city if it established an agricultural college here, so that would be an additional outlay.

Mr. SQUIRES. In other words, the building at Logan could not be sold and the money turned into the State treasury?

Mr. ROBERTS. No, sir; my understanding is that it reverts back to the city of Logan, buildings and all, and that there is that much loss to the Territory.

Mr. FARR. Mr. President, I am satisfied that the amount of land cannot be bought here that they have there for ten times as much or a hundred times as much as that land is worth. I think the land here would cost from ten times to a hundred times as much here as that land would bring there, if that college was thrown up for farming purposes, but as they have got that land there adjoining the college all brought into proper cultivation, water provided for, everything handy and convenient, why I think that that would be an appropriate place to keep the college on account of the land. I have not but a very few words to say on this. My mind has been fully made up ever since the college was located there. From the knowledge I had of the country and of the people and of the circumstances, I felt as though when the college was located there it was located in wisdom, and by men that were men of wisdom. I have been also satisfied from the beginning that the university, which was established when this Territory was a State—called the State of Deseret, that the college was established here in Salt Lake City. Some minds have been trying to drive the college away—that is the university, to Provo, and some tried to get it to Ogden, and some to Logan. All that is speculation to me—to me it is all child's play or boyism, to talk about that. The university has been located here at headquarters, at the seat of government, the place that was first located for a city when I first came here most forty-eight years ago, and the university should stay here. I am

prepared to vote and to do in this—fill up that blank in this article that the university shall be at Salt Lake City; let that be the end of the controversy. I am willing and more than willing and anxious that we settle this point to-day, and that the agricultural college shall be at Logan and not allow it to go to future Legislatures, for if it is left open, you will find there will be petitions and men come to the Legislatures, and the Legislatures will agitate it and detain and handle the body of men composing the Legislature for days trying to get the college away, and they will bring up their philosophy and their arguments to show good reasons, as they suppose, why the agricultural college should be taken away from there. But, as it has already been remarked, that college has been located there by wise men, and I am satisfied and have been from the beginning that it is located in the right place. There cannot be a pleasanter place found in Utah Territory to-day than where that thing is located, and most of the members of this Convention that have been up there lately will bear me witness in that. It is a pleasant, healthful place and there has been between two and three hundred thousand dollars already laid out there, and the question of moving of it away would be attended with a great deal of expense, more than enough to pay the extra expense that is now supposed in running those two institutions separately. That is, the cost of running those two institutions separately, they claim will be more than it would if they were consolidated. Now, my experience in that matter is this, that it is not well, it is not good economy to locate too many things together. We would not want to have the whole United States dumped in here to Utah, it would not be consistent. It would not be reasonable, but on the same philosophy and reasoning the more you get in here the better, but I do not believe in that kind

of argument. I believe when you have got enough, why let good enough alone. It is an old saying, "too many cooks spoil the broth." We do not want too many things together. [Laughter.] In regard to a matter now of economy—the university here is in Salt Lake City; it is understood well by everyone who send their sons and daughters to school, they know what branches are taught in this university, they know what branches are taught at the agricultural college at Logan. They, of course, then send their sons and their daughters to the university to learn those branches that are taught. The branches that are taught at Logan we would not want to crowd them into the school here, nor the branches that are taught here at the university, we would not want to crowd them into the school at Logan. There need not be any extra expense about that.

As has already been remarked, that expense of moving the college from there would greatly overbalance the extra expense of it being kept separate and used for perhaps from one to two hundred thousand dollars in moving that college away. It would be wasted. To me it is too much like boyism, to locate a college there and run it a few years and then say that we have got sick of it and want to move it away. There is no argument, there is no reason why, there is no saving in expense. I tell you out of three or four hundred students that go to school to Logan, and there expense is reasonable—is thirty-three per cent. less there to what it would be to go to school here in Salt Lake City. In board and in lodging, you will find that there would be a great saving in the expense of the students to go to school than what it would be to come down here. It will more than pay the expense of the extra teachers. True, if consolidated, one president would answer for the whole institution, but you would have

to have teachers for the different classes if you had them all here, hence, I cannot see that there is going to be much argument in favor of saving expense. In fact, I am satisfied the argument would be in favor of keeping them separate on account of the expense. That is, the boarding of the students that would go to school there and the teachers that would be employed could afford to teach for less because the expenses for boarding, lodging, etc., would be less there. Hence, there is no argument. Now, we are located right here in Utah, we expect to have a university and colleges here in Utah that will take the lead of any we have got in the United States. I tell you we have got in the right place. I recollect a saying of Thomas Benton, the great Missouri senator, when the people first emigrated here to Utah, I being in the first company that came here, I recollect of hearing a saying coming over the first mail; it used to take six months to get the mail through to Utah. We only got it once a year, in the summer season, and when Mr. Thomas Benton had succeeded in getting that disagreeable element out of the states here in Utah, he thought he was going to get them out here among the Indians and they would be destroyed, but when he found out that they were going to locate here in the Great Basin, "why," said he to the senate—he was speaking to them in Congress—"they have got right on to the backbone of the continent," says he, "it is the very key of the continent and all hell can't get them out." Now, gentlemen, we have got here, we are right on the backbone of the continent; we have got the key of the continent, and I tell you we are going to have the key of science, of learning, of literature, and we are going to turn out some of the ablest men in the Union, or in the world. Now, mark it. And we have to patronize these institutions of learning, and I say let the college remain where it is,

and let us fix it, right here to-day, that the college be at Logan and the university here in Salt Lake City.

Mr. HILL. Mr. Chairman and gentlemen of the committee, I have listened with a great deal of satisfaction to the remarks that have been made by those gentlemen who have preceded me. I asked Mr. Farr to come forward so I could hear him. I heard just one remark that he made and that was the question whether we would like the whole of the United States dumped into this Territory or not? I presume that question was directed to me.

Mr. FARR. Not at all, not at all.

Mr. HILL. I will frankly make this statement, that I certainly would like to see the whole of the United States dumped into this Territory. I have had but a limited experience in business. That limited experience has taught me not, as is frequently said by business men, to be certain not to put all your eggs in one basket, but this is a very different proposition. I have listened to the remarks of my democratic friends and my republican friends, in reference to economy, that we in this Territory were poor, and in fact I have often thought from the remarks that have been made here that this was one of the most inopportune times that the government of these United States had offered unto us an Enabling Act. It appears that we have got so narrowed down in our ideas that we are not prepared to sustain statehood. It appears to me that we are in a position to-day that we could not school our children, from the remarks that have been made upon the floor of this Convention. We to-day have got invested in our university two hundred and fifty thousand dollars in round numbers. We have got invested in our agricultural department in Logan two hundred and eleven thousand dollars. It appears to me from the remarks that have been made here, what I consider very consistent, that the uniting of

these two educational branches should certainly carry in this house. I make this statement, and I make it boldly, that one man, having the ability, can run an establishment that has a capital of five million dollars equally to advantage to one man who is employed in the same position to run an institution at a salary or rather capitalized at five hundred thousand dollars. It appears to me that the uniting of these two enterprises would reduce our expenses. It appears to me that we are running from one point to another and saying that we are too poor to carry out certain enterprises, but we are to go to work and spread out all over this Territory and have sufficient means to enable us to carry this out. I shall certainly vote in favor of the uniting of these two enterprises. It does not make any difference to me whether they are located in Utah County, in Cache County, or Salt Lake County. It appears to me that the gentleman who has charge of the agricultural college and our university—one man can fill both of these positions, and he can fill it at the same salary that it would require to run the university or run the agricultural college, and if it is economy we are after, if it is after the benefit of the commonwealth and this Territory, why not unite them? When you go to work and say that we have got \$211,947 invested in Cache in an agricultural college. I take the position that that property, can be disposed of to advantage. I take the position that the two hundred and fifty thousand dollars that we have invested in this county can be disposed of, and if this Convention says that these institutions shall be united and placed in Cache, I am ready and willing to support such a proposition, but I will tell you right here, gentlemen, it does not make any difference whether we believe it or not, united we stand, divided we fall, and it does not make any difference where we place these institutions of education,

they should be united and they can be run to far better advantage than in any other way.

Mr. MURDOCK (Beaver). Mr. Chairman, I do not want to make any speech, but I want to be informed before I vote, and there are two or three or perhaps four questions can be answered. Perhaps I will be informed, and while I am being informed others will be also.

Mr. RICHARDS. Will the gentleman from Beaver permit me to ask the gentleman from Salt Lake a question, who just sat down? I desire to ask the gentleman how the property now belonging to the agricultural college could be disposed of advantageously, when under the law it would revert to the former owners of the property if the college was removed?

Mr. HILL. Is it not a donation? Has it not been contributed to the Territory as a donation?

Mr. THATCHER. On condition that the college remained there only.

Mr. HILL. Then, I will answer your question, by asking why not take the university to Cache?

Mr. SQUIRES. For the same reason.

Mr. RICHARDS. Then the university proper would revert to the State.

Mr. HILL. Well, then, it will benefit Salt Lake County.

Mr. RICHARDS. But it could not be disposed of to advantage as you suggested in your remarks.

Mr. HART. I would like to ask the gentleman a question. If the figures that he gives include the value of the real estate, or if the values named—\$250,000 for the university, as the outlay there in buildings, and if the \$211,000 that he named as the value of the Logan property, is the amount that is expended in buildings exclusive of the value of the 108 acres of land?

Mr. HILL. I will read the statement which I believe is authenticated over the name of John T. Caine, that the amount of property owned by the Territory—the university of Utah report of

1893, is \$250,327.05, the agricultural college of Utah, report of 1893, is assets \$211,997.23.

Mr. HART. Do you know whether that includes the value of the real estate?

Mr. HILL. That, sir, as this report says, is the assets of this Territory.

Mr. HART. Including the real estate?

Mr. HILL. Yes; it is given as such; those are the figures that I have before me.

Mr. MURDOCK (Beaver). I think, as Mr. Snow said, from Washington County, perhaps that is as necessary as any other point that we need to be informed upon—is there any man here that is posted in regard to the college at Logan, in regard to its capacity, in regard to the patronage that it receives? Is there any man here that knows the capacity of it for accommodating students, and in regard to what patronage it now receives?

Mr. SQUIRES. I am informed that the Logan college has a capacity for six hundred students. That during the last winter and up to a short time ago it had three hundred and sixty students in attendance, but that now a large number of them have gone home to participate in the spring work, on the different farms where they belong.

Mr. RALEIGH. Are you not mistaken in the capacity of the building? I understood it to have a capacity of about sixteen hundred and there were now about one-fourth of that number or nearly so.

Mr. HILL. Mr. Thatcher I think is equal to answer that question.

Mr. THATCHER. I think it can accommodate six hundred easily.

Mr. MURDOCK (Beaver). Can you tell me now what are being accommodated at the present time?

Mr. THATCHER. I do not know the exact number there are now, but last winter during the whole winter it accommodated 360.

Mr. MURDOCK (Beaver). I was told

when I was up there that there was less than a hundred. I was told that the boarding establishment which has cost perhaps several thousand dollars was not in use to any extent whatever, but that the pupils were boarding around through the place. Of course that would be an extra expense to keep that up. Can you tell me how extensively it is patronized by the city of Logan and county of Cache—can anyone tell me that?

Mr. THATCHER. Very extensively patronized by both.

Mr. MURDOCK (Beaver). I was told to the contrary.

Mr. THATCHER. You have been misinformed.

Mr. MURDOCK (Beaver). Well, perhaps so. I am only wanting information, if there is anybody that can tell. We can see, gentlemen, that there has been a great expense to the Territory for the establishment of the institution, and I am thoroughly in favor of education, not only in what we may receive from these high schools and universities and colleges. I think that a college should certainly be patronized by the people, but if we go to work and expend ever so much money and we do not get the patronage, why, then, we are at a loss. We are losing money by expending it in that way and I want to know whether the end is reached that was designed when the appropriation was made to establish a college—whether it was in this city or any other city—that is the question, I contend. That is in line with what I shall now say in regard to any educational institution, is that if it is in the reach of the people to patronize, that is high schools, I say very well, have them. We cannot get too much of a high education. Now, I realize that, but it is out of the reach of many people. Now, that institution there is entirely out of the reach of the people of the south—entirely out of their reach, with very few exceptions indeed. Why? Because, it is taking the pupils

away from home, and they have to go to a greater expense, that their parents are not able to meet, but if the children were all in that vicinity, or in an institution here in this city, if the children of the Territory were right here in this vicinity and could have access to these high schools, and these places of learning, of agriculture, and other institutions, why, then, I say let us have them, but the lack is patronage and that is the lack in Logan, to-day, gentlemen—is the lack of patronage.

Mr. HART. Mr. Chairman, the gentleman has been misinformed as to the attendance at that college. The fact is that it is very liberally patronized by all of the counties of the whole Territory and by surrounding states and Territories.

Mr. MURDOCK (Beaver). Well, I am glad to know it.

Mr. HART. I do not know the exact number of states and territories that are patronizing it at the present time, but during the last year Professor Sanborn informed me that there were some ten or twelve of the surrounding states and territories that had children there, and besides that, it was very liberally patronized by the different counties of this Territory, and the attendance there was as stated by Mr. Thatcher, between three and four hundred—about 360, or 365; I think 365 was the limit it reached in the years 1893-4, and there are certainly more than a hundred students attending there now. The gentleman was misinformed in regard to that. I could not state the exact number now, but there is quite a falling off from the attendance of 360 pupils, and you will find that the attendance of the college during the last two or three or four years has been about equal to the university of Utah. My impression is that the attendance of both has been in the neighborhood of three or four hundred pupils during the last two or three years.

Mr. MURDOCK (Beaver). Let me ask

you a question. I believe the summer season is the time to study agriculture, is it not—we cannot study that much in the winter, can we?

Mr. HART. Oh, yes. Of course, the study they give there—

Mr. MURDOCK (Beaver.) It seems to me agriculture should be studied in the summer and spring and fall.

Mr. VAN HORNE. Mr. Chairman, I just arise to state the facts given me by a professor of the college. The attendance I think during the winter was exactly stated by Mr. Hart as 365, as the enrollment for the year. The professor told me at the time of our visit that there were 140 now, that others had gone to their homes preparing to put into execution what they had learned in the agricultural course during the winter.

Mr. PIERCE. I would like to ask Mr. Hart a question. Is not it a fact that the agricultural college is used as a great extent as a high school for the pupils of Logan City and Cache County, who ought to be in the high schools of the county, and the district schools?

Mr. HART. No, sir; I think not. I think the agricultural college is giving the sphere that was mapped out for it by the territorial Legislature. I have heard that complaint as to the agricultural college, and I will inform the gentleman that I have heard the same complaint against the university of Utah, and it has been seriously charged, especially against the latter institution, that it was duplicating the ground of the high school. I think there are misimpressions that have gotten out as to the work of both schools.

Mr. BOWDLE. Is there a high school in Logan?

Mr. HART. Yes, sir; there are several, two at least, first class high schools. There is the Brigham Young college there that virtually covers the ground of a high school, that has an attendance of between three and four hundred people.

Mr. PIERCE. Are there any free high schools?

Mr. HART. That is practically free. There is only a nominal tuition, and then there is the New Jersey academy, another sectarian school, that is practically a high school.

Mr. PIERCE. Are not they both sectarian schools?

Mr. HART. Yes, sir.

Mr. CANNON. I would like to ask Mr. Hart, whether the course of the B. Y. college, as it is called, is lower or higher than the course in the agricultural college?

Mr. HART. Well, they of course in part cover the same ground, but the agricultural college teaches a distinct line of studies from B. Y. college. That is a large portion of the work there in the agricultural college, as I understand it, that is not taught in the Brigham Young college.

Mr. CANNON. Is this a fact, as I have been informed, that students of the B. Y. college are from one to two years in advance in higher education of the students of the agricultural college.

Mr. HART. No, sir; it is not true.

Mr. IVINS. Mr. Chairman, had it not been for the fact that during the session of this committee yesterday I had referred to the union of these two institutions, I should not now ask your indulgence for a moment, and if I had known that I should be called to the chair to-day I should not have made the statements that I did yesterday, because I regret that it becomes necessary for me apparently to vacate a few moments, in order that my position upon this question may be fairly defined, because of remarks that have been prompted by the few words that I said yesterday afternoon. In the first place I wish to say that I was a member of the last Legislature of this Territory. I came to that Legislature, very strongly prejudiced, as all members from the agricultural or outlying counties of the Territory were, in favor of the college

at Logan. I came very strongly prejudiced in favor of its location there. Immediately upon the session of that Legislature an agitation was begun in regard to the union of these two institutions. Nearly every professor in this Territory or in this immediate vicinity at least, expressed his views either in writing or before committees which were appointed upon this important question, and I want to say now, by way of parenthesis, that I regard this as the most important question that has come before this Convention during this entire session. The committees were arranged, interviews were held, all the leading educators of this portion of the Territory were called before those committees and their opinions obtained. Their opinions were obtained through the press, and it is a strange thing to me now, gentlemen, to see some of the men who most strongly advocated at that time a union of these two institutions, for some reason which they fail to explain, say that it is better that they should remain separate. Now, I only wish to defend my own personal position here this afternoon. The result of my investigation was—and I was careful to inquire, we visited the agricultural college, not merely upon a junketing tour, but in order that we might get information in regard to its condition, we listened to the consensus of opinion by these educators, and I want to say that it was so overwhelmingly in favor of the union of those two institutions that I was converted against my prejudices and in spite of my former convictions. It most certainly was contrary to my own feelings. I knew that if there were any interference with that institution at Logan—if I should even intimate anything that might be construed to be an unfriendly feeling towards it, that I should come in contact with some of the very best and most esteemed friends that I have, but I could not, as a representative of all the people of this Territory, laying

aside partisanship, laying aside prejudice—I could not but be converted, that the only proper thing for the people of this Territory to do was to unite those two institutions in one without any regard to their location, gentlemen. What are the conditions that confront us? We have upon our hands these two institutions of learning. Is either of them a live institution to-day? No, it is not. The university came to us and told us that they needed one hundred and twenty-five thousand dollars, that that was the very least amount of money with which they could properly conduct that institution during the years 1894 and 1895. We looked at the finances of the Territory and we found the very best we could do was to give them forty-five thousand dollars, not enough to keep the doors of that institution open, and I tell you now, that unless there be a large deficit, it must close. These are the conditions that confront us. It is no theory. The same applies to the agricultural college at Logan. They asked us, I think, for sixty thousand dollars. I am not certain however in regard to this. That is my recollection.

Mr. HART. Forty-six thousand dollars.

Mr. IVINS. Forty-six thousand dollars, representing to us that that was the very least that they could properly conduct that institution with, in addition to the appropriation that they received from the government.

Our finances only permitted that we should appropriate to them fifteen thousand dollars, a niggardly sum. I voted in both instances to give those institutions more money, because I thought that without more money it was useless to attempt to maintain them. Now, if the members of this committee are not prepared to take action upon this matter, I do not insist upon it. So far as I am concerned personally, my mind is made up. I do not believe that for a generation to

come the Territory of Utah or the new State of Utah will have it in her power, through her limited finances, to establish firmly and properly both of these institutions, but I do believe that she can establish one institution that may eventually grow to be a credit to the people of this State. It has been intimated here that in my proposal, which I made yesterday to unite these institutions, I had been steered by Salt Lake parties, that these were not my own sentiments. Wonder has been expressed that they should emanate from me. I want to say that I consulted with no Salt Lake man in regard to my convictions upon this question. Personally, my prejudices were all in the other direction. They are my convictions, arrived at after deliberate and careful investigation of this whole question. I am open to conviction, but there must be some stronger argument. I submit that the argument of Professor Kerr, which was made here this morning, has not been answered. No attempt has been made to answer it. The gentleman from Utah says that it reflects discredit upon the Legislatures which established these institutions, that we shall now attempt to undo their work. I want to say here, gentlemen, that I never could understand that it was good judgment which prompted that Legislature to bond this Territory for three-quarters of a million dollars, in order to establish institutions in Cache County and Weber County and Utah County, that were far beyond the demands of the people of this Territory. I do not question their intention, but the experience of the past four years has taught us that they looked far beyond the time. The boom spirit had taken hold of them and they simply went crazy on this question. We are bonded now for three-quarters of a million of dollars, that these institutions may be established. Now, if the members of this committee are ready to act upon this

question, I am. I am ready to vote for the union of these two institutions, if they are not ready. If they wish to investigate more fully, if they wish to refer this to their representatives in the next Legislature, all well and good, but I do believe that this question of location ought to be settled once for all, that it may be taken out of politics, and that these institutions may be taken off of their wheels and begin to take root in some place or other. Then we may anticipate a healthy growth. I shall not discuss the merits of the two institutions, nor the question of locality at all, but there is something to be said upon that when the proper time shall come.

Mr. CANNON. As has been stated by previous speakers, this question should be carefully considered. The statement has been made that it is not proper for the Constitutional Convention to deal with this question. I believe most emphatically that it is proper for the Constitutional Convention to consider this matter, and if possible to determine what should be done regarding our higher educational institutions. We have precedents for this. Massachusetts has been referred to to-day, by one of her native sons, as being the head in educational matters in the United States. Massachusetts in her constitution, chapter 5, provides for her university and college of Harvard. I am in favor of uniting these institutions, and the question of location is simply a secondary matter. I naturally have my choice. I have a preference for one site or another, but that is not before the Convention. So far as I am concerned, the question should be decided entirely on its merits, as to whether or not it is good for the people of Utah to have one university or to segregate its educational institutions. There could be produced any number of letters from men who have made this subject a study, and I will not take up your time to read more than two of them, but I have here the

opinion of a man who stands at the head of educational matters in the United States, a man who is the president of the leading educational institution in the United States; I refer to President Charles W. Elliott, of Harvard university. (Reads.)

I take it that this gentleman's opinion is entitled to respect. He has made it a life study; he has investigated the conditions that exist throughout the country, and this is his opinion with regard to these institutions for a western state. The loss has been referred to that would be entailed by removal either from Salt Lake City or Logan. The loss, it is true, would be temporarily great in either case, but I believe that that loss would be more than compensated for by the increased advantage that would come from the endowments that would be bestowed upon an institution were it permanently located. I desire in this connection to call your attention to the opinion of a gentleman who represented the United States as a minister to St. Petersburg. In his letter dated St. Petersburg, December 19, 1892, Honorable Andrew B. White, who was then United States minister to Russia, and who was the ex-president of the Cornell university, said: (Reads.)

Mr. Ivins has referred to the arguments which were made before the last Legislature. I was present when the committee held its sessions and listened to some of those arguments, and of the educational men who appeared before the committee; the vast majority of them declared that union was for the interest of the State. Among those who appeared was the president of the agricultural college, and I heard him declare that union should be made and that it should be made at once, that it was for the good of the people of Utah, that those institutions should be united and that they should be established. I ask you, gentlemen, why is it that he should change upon this occa-

sion? If it was good logic then, if, from an educational point of view, it was the correct thing to unite those institutions, why is it wrong to do so at the present time? I claim that if what he said was true, at that time, it is the correct thing to do, and this evidence is borne out by the statements of others. I claim that at the present time a rivalry exists between the two institutions, and it is not a generous rivalry, that the institution which seeks to obtain from the Legislature appropriations, seeks to cast reflections upon the other. I regretted to hear one of the gentlemen from Cache County cast reflections upon the university of Utah and upon the people of this section of country. I, too, visited the agricultural college the other day, and we were treated in a royal manner. We received the best treatment that could be afforded. I was pleased with the people whom we met. I was pleased with the institution which we visited. I was pleased with the teachers, and their methods, who explained to us the various departments which they were conducting. I have no word of reflection to cast upon them, because I do not think that it is for this purpose that we are here—to cast reflections upon one institution or another of a state, but it is to look to the welfare of the State. I call your attention to the fact that the gentleman says students have come to Salt Lake City and gone back and not been fit for anything. I call your attention to the fact, there are delegates here who are graduates of the university of Utah and sit there while he refers to kid gloved graduates, and to the uselessness of men who come back. I should think they would feel it was a reflection upon those men to say that. On the contrary, I wish to say that last summer I visited Cache County on one occasion and there found one of the university of Utah who is an honored member of that community, and when I found him, it was after his summer

vacation. I found him covered with that brown which comes from working in the fields, and as he took me out and proudly showed me the stacks of grain which he had piled up, I say he refuted the statement on this floor that a man cannot come to this city and go back to Cache County, or to any other county, and perform an honest day's work. I trust, gentlemen, when we vote, we will cast aside local preferences and vote for that which will be for the good of the people. I will say now that if I knew union, if effected, would take place at Logan, and not at Salt Lake, although I believe Salt Lake is the proper place, yet I say I would vote that the institutions shall be united at Logan, rather than that they shall struggle along a miserable, half starved existence in the two separate localities.

Mr. HILL. Mr. Chairman, Mr. Richards asked me a question. I am now ready to answer that question. It is this, the teachers' salaries at Logan, thirty thousand dollars per annum, ten per cent. on this amount for seven years would more than compensate Cache County for all their improvements that they have made and the land included.

Mr. BOWDLE. Mr. Chairman, the gentleman who spoke and arraigned the kid gloved aristocracy of the colleges and the dudes and all that kind of thing, referred to Ohio to back him up in his assertions. It is my misfortune—or Ohio's misfortune and my good fortune, that I am a native of that state. Accidentally, or rather by the kindness of a friend, there has been put into my hands this afternoon two papers that are edited in the university of Ohio. I might say that I lived adjoining the grounds of that university for a number of years, and quite close to it for still a greater number of years. I was personally and well acquainted with a number of the faculty of that university and know something of its growth,

and of its history, and if the gentleman stated facts to-day, then I did not learn the facts when I was there. I think they were just about as nearly correct as three-fourths of the rest of his statements. The fact, gentlemen, was simply this, Ohio undertook to establish an agricultural college, it did establish an agricultural college, it carried it along for a number of years. It could not make it go, because the students could not be forthcoming to fill its halls. There was a feeling among the persons who wished to go to that kind of a school that they wanted to go to a school where they would come in contact not alone with the one thing they were studying but with all other branches, so that they would have the opportunities, and further, there was this feeling that they did not wish to go to a school that was called an agricultural college, and when they went out and their diploma showed agricultural college, they would say, "yes, you are a graduate of that farming institution up there. It does not give you any standing or anything of that kind." They wanted to go to a place so that when they got their diploma it would be from a first class college, with first class appliances, and then with whatever credit that brought to them. For a number of years that was attempted. The fact was that the university when it quit that business had just about a hundred students. I have, in order to be certain that I was correct upon these matters, consulted with an alumnus of that university since this morning—a professor in a school here, whose name I will not give, but to many of you well known, and he gave me some of the further facts. They abandoned the idea. They opened up a broad course of study, made it a first class university in every respect, they still retain their agricultural college. They had a fine farm and still retain it, and to-day, they have in regular agricultural college course, as shown by their literature here, over a

hundred students in that one department in the college proper. That does not include a great number that are in the preparatory department, and who are not classified, and who are seeking a course in that department in agriculture. I have before me a paper that is published by the students of the agricultural department of that university, a monthly periodical containing some fifteen, twenty, or thirty pages. I do not know exactly how many, but here is one point particularly I want to call attention to, it bears out what was said here this morning by Professor Kerr, this is the paper that is published by the university generally. The other one is simply the agricultural department. I read from the other, "the trustees at their meeting to-day accepted a donation of ten thousand dollars of Mr. Emerson McCune, to establish an observatory at the university, on the conditions proposed."

That is dated April 11, 1895. The fact is now, that that is a strong university. There is a man of means that is beginning the endowment of an observatory, because he can perpetuate his name there. And it is not a university on wheels, with its powers divided, part here and part there, but it is a university where everyone may get whatever kind of an education they want. We do not take any stock in this theory that a boy who goes from the farm to a school of that kind would be ashamed to be seen by the upper class men. Do you not know the fact, gentlemen, that it is from the farms of this nation that men go to the colleges that lead their classes? It is a fact. You may take the history of the colleges of this Territory. You cannot snub a fellow that has got the grit in him. You cannot put him down. You may talk all you please about it, but you cannot do it, and it is the history of the colleges that it is the farm boy that very often is the valedictorian, so I take no stock in that part of this argument. I have learned

that old adage a long time ago—it may be wrong—that in union there is strength. If it be true, it seems to me that we will make a mistake if we do not unite these two institutions, place them where you please; I am perfectly indifferent in that regard; of course my interests are in Salt Lake, but place them in Cache Valley, if you wish to unite them, wherever you place them, and make of them a university that will command the respect of the people. But, says someone, economy, economy; we will lose a great deal of property. Suppose you are running two households, one for yourself and one for your wife, over there, you are living a "bach" over here, and she is keeping house for herself over there, and you are running at a loss all the time; you are running at a loss, because it costs as much to keep this household up there as it does that household, for you can live just as cheaply over there as both can live here. You had better give one house away and both move into the same house and then quit this constant expense that is breaking up the institution where it is.

Mr. NEBEKER. Mr. Chairman, I realize the fact that this committee has heard a great deal on this subject this afternoon, and is necessarily tired, but I feel as though I ought to speak to this question. I want it understood that I am against the amendment and for the union of these higher educational institutions. I believe by union that the interests of economy will be looked to first and the interests of efficiency second. I know that some members have expressed their opinions on this floor that if we should unite the university and the agricultural college that the industrial branches would be lost sight of. Now, I do not think that that position is well taken. I must acknowledge that when I served the first representative district in the Legislature in 1892, and the question of appropriation for these two institutions came up, I thought at that time that

the Territory of Utah was big enough to support the two and voted for a very handsome appropriation for both institutions, and I do not think that it will cast any reflection upon the acts of any past Legislature if this Convention at this time sees fit to unite these educational institutions, because I believe that every gentleman who was there acted with the best information that he had on the subject at that time. But past experience, gentlemen, has taught us that we were grappling with a proposition that was larger than we were able to take care of. And it is necessary that if we have an institution of higher education in Utah Territory, in my opinion, that they be at any rate placed on one site.

Now, as to the idea of this dude that has been spoken of. I do not think the gentleman of Cache meant just exactly what he said on that proposition, because he knows that what little education I have I obtained it down here at the university while that was a high school, and he also knows, I believe, that I, while he might call me a dude, can pitch just as much hay, survey just as many water ditches, and assay just as many hand samples, as the gentleman can himself, notwithstanding I received what little education I have at the university. A dude, I think, gentlemen, is something born, not made by education, and is neither male nor female. [Laughter.] I want to call the committee's attention to the position that was taken by the gentleman from Cache who first spoke upon this proposition, and while I was not here during the first part of his remarks, I did not understand his position to be that students who were in the classical department in the Cornell university looked with scorn upon those who were in the agricultural department. Am I right, Professor Kerr?

Mr. KERR. Yes, sir.

Mr. NEBEKER. It has been intimated in this committee, that was the

position of the students who were in the classical departments at Cornell. I want to tell you, gentlemen, to appeal to your own reason on this proposition, and I would ask you if those students here together in the same classes, as they necessarily must be, whether they are studying literature, whether they are studying mechanical engineering, or whether they are studying agriculture, if there is sense in possession of the students, if that will not be made apparent? I take it, sir, that if some attorneys that are on this floor had been educated in the school of law under a university in which a college of agriculture had been maintained, they would recognize the fact that laymen possess some sense. Now, the proposition of whether the industrial part of the university, if united, will overshadow the classical part, I want to call your attention to this, it simply depends upon the people themselves. For instance, if there are more parents in this State who wish their children to have an industrial education, of necessity there would be more students in the university pursuing those courses. If, on the other hand, there are more parents who wish their children to obtain a classical education, then you will find more classical students in the university. And I submit, gentlemen, if the people want their children educated in the industrial pursuits, they ought to have them right off. On the other hand, if they want to make lawyers, doctors, or classical professors of their children, they also ought to have that right, and I do not think that that argument is well taken. And I hope this committee will see that it is possible and is the right thing to do to unite these institutions at this time. I do not think it is right to keep the people of Cache upon the ragged edge of uncertainty, to have this question continuously agitated in the Legislature, nor, on the other hand, do I think it is right for the university

people to be in the same uncertain position, and I think it is proper right here and now, notwithstanding there may not be a precedent for us to follow—I call your attention to the fact that if there is no precedent to follow, it is not an argument in favor of the position that we ought not to unite these two institutions, because we are here to be precedent makers, if it is right.

Mr. KERR. Mr. Chairman, I do not desire to detain the committee, but merely to give an explanation. It seems that some misunderstood the statement that I made with respect to the amount that would be saved annually by uniting these institutions. The statement I made was this, that the amount saved would depend upon the amount given to the institutions, for their maintenance. If they received a small appropriation, the amount saved would be small, if large, the amount saved would be correspondingly larger, and if the institutions receive one hundred and twenty-five thousand dollars a year, I have estimated that there would be a saving of about thirty thousand dollars. Of course, it would be absurd for a man to assume that both institutions together could be maintained for less than either requires by itself. I made no such assertion.

Mr. NEBEKER. Is it not a fact that the last Legislature appropriated forty-five thousand dollars to the university?

Mr. KERR. I so understand it.

Mr. NEBEKER. Is it not a fact that that sum was considered wholly inadequate to perform the work that was expected of the university.

Mr. KERR. It was less than half of what would be required.

Mr. NEBEKER. I call Mr. Squires' attention to the fact that the agricultural college received an appropriation of fifteen thousand dollars.

Mr. SQUIRES. That was for two years.

Mr. NEBEKER. And the forty-five thousand was for two years, too.

Mr. SQUIRES. I understand that.

Mr. NEBEKER. Now, that fifteen thousand dollars was considered by those people who represented the agricultural college as insufficient to do the work that was expected of that institution, so that when you are figuring on the last appropriation you must understand that that appropriation was made simply with a view of keeping these two institutions in bare existence, not with a view of their performing efficient work, as they ought to do.

Mr. KERR. The other point I desire to make was with respect to the attendance of the university and the agricultural college. The attendance at the university this year is 453, the attendance at the agricultural college is upwards of 360. So far as that is concerned, I think the people of Utah are very much interested in both institutions, and because of the statement made by my colleague from Cache, I desire to state that personally I have no greater interest in one of these institutions than I have in the other, and I desire to state to the committee that I have absolutely no direct personal interest in either of these institutions, and I stand upon this question, just where I stood a year ago. I would not, if I knew it for a moment, advocate anything that would interfere with the industrial work of the agricultural college, neither would I advocate anything that would in any way interfere with the work of the university. I am interested in both institutions, as a citizen, and as director, that is all. I received my start in educational work from the university of Utah, and while I may be classed among those referred to by the gentleman from Cache, yet I do not think that it can be said that a majority of the students who graduate from that institution—indeed, I would add in this connection, that I know myself of many students of the university, who are

working several hours each afternoon, and spending most of their time on Saturdays in workshops and in the foundries, and at other places, making enough to pay their board bills. They are the poor of this Territory, and, gentlemen of the committee, remember that whatever we do for higher education, we do for the poor. The higher educational institution is a ladder upon which the poor climb. We are not legislating for the rich. We need none; the rich can send their sons and daughters to the east and to Europe, but our poor are those whose interests we have to look after.

Mr. ELDRIDGE. Mr. Chairman, this question that we have under consideration, being particularly in the interests of education, would naturally involve at least in an indirect, if not a direct way, all the educational interests of the Territory. I have a few items which I wish to submit briefly to this committee without any extended argument upon the question, that we might realize fully what our educational system has cost us during the last two years previous to the present. We find that the net revenue for territorial and territorial schools, for the year 1892, was \$560,597.48. For 1893, it was \$530,000, making a total of \$1,947,000.48. Of this amount there went to the school fund direct—that is, to the public schools of the Territory, \$654,358.49, leaving a balance to meet all other expenses associated with the territorial government of \$436,238.99. There went indirectly in the interests of schools—that is, such as school superintendent and expenses connected with the office, to university lands and sundry expenses, which I have here in case anybody wishes to ask questions on it, the amount of \$221,487.99, leaving only a balance of \$214,751. That is to meet the expenses of the general government. Now, we find that system of procedure was gradually leading the Territory into the condition in which we find it

to-day, with a bonded indebtedness of seven hundred thousand dollars and with a deficit of about one hundred and thirty thousand dollars.

It is apparent that we have either got to economize in our system of schools, or that we have got to increase our taxes very largely, because our borrowing capacity is now circumscribed to that extent that we only have two hundred thousand dollars more to go on. Now, let us look briefly into the history of the university. For the year 1892-3, there were normal students attending the university, 203; there were those in the preparatory department, 81; there were those doing university work, 84; making a total of 368 students in the university. There were then associated with the university, the deaf mute department, with 45 students, making a total of 413 students in the university for that year. The Territory appropriated ninety thousand dollars for the expenses of the university for two years. There was received by admission fees, \$4,516, making a total of \$94,516 to defray the expenses for those two years, which was equivalent to \$226.43 per capita for the two years, or in other words, \$113.21 to each student that was being educated in the university. The Legislature a year ago now appropriated sixty thousand dollars to the university. Some gentlemen will say that it was only forty-five thousand, but when you add forty-five to the university direct and fifteen to the deaf mute department, it makes the sixty thousand dollars. There were 216 normal students; preparatory department, 49; students doing university work, 81; making 347 students in the university, and 49 in the deaf mute department, making a total of 396 in the university. Now, the Legislature has appropriated sixty thousand dollars for the university, including the deaf mute department; they received in admission fees, \$4,164, which gave them a sum of \$64,164 to carry

the educational work, which was an amount equivalent to \$162 to each student for the two years in the university. Then, they come forth and say that that is only just a meager amount. It is only barely keeping the institution in existence, and it is not sufficient to carry on the work. Now, let us compare the expense of educating one of those students in the university with that of one in the common schools. We find that that same year, according to the territorial school tax, it simply provided an amount of seven dollars per capita for the two years for each student in the common schools. It is, according to all information that I can receive from universities, and according to my best judgment, that it is impossible for the university of the State of Utah to be supported by direct taxation, and it has nothing in sight that we know of by which it is going to receive a sufficient amount of funds to maintain it from that source.

I opposed last winter in the Legislature very vigorously the idea of union, and I had my reasons at that time for so doing and I have them now, and I thought that the proper time had not come to take such a step. I thought that the conditions which surrounded us and the circumstances then that existed would not justify that body to form a union of the university and of the agricultural college, but in the progress of our history, I believe that we have reached a period now that we can grapple with that question satisfactorily, because we are in a position that we can handle other questions which needed, in my judgment, to be handled at the same time that this question of union should be handled, and I am satisfied that the same professors that have been employed there at the university or at the agricultural college could, with perhaps the addition of two, manage all the students that were in both institutions and thus would have relieved the Territory of a very great ex-

pense; and viewing it in this light and believing that the time had come that the question can be handled in its broadest sense, and that this measure can be treated in a manner that will meet at least with the approval of the majority of the people of the Territory of Utah, and to the satisfaction of those that are immediately concerned, I am going to cast my vote in favor of union.

Mr. GOODWIN. I would like to ask Professor Kerr a question. I believe there were thirty-six professors in the university and twenty-two in the agricultural college, that makes fifty-eight professors; their salaries last year were about fifty-five thousand dollars. Mr. McCornick tells me that the salaries have been reduced at the agricultural school, so that they will not exceed thirty thousand dollars this year and \$22,850 at the university, making \$52,850—\$1,400 apiece, in round numbers. How many of those professors could be done away with if the institutions were united?

Mr. KERR. That would be difficult to say, because I have not made a careful estimate. I could, however, in fifteen or twenty minutes make, an estimate.

Mr. GOODWIN. I presume of course that some professors at the agricultural college are specialists in particular departments and would have to be employed here. What I mean to get at is how many of the classes of the agricultural school would be taught by the same professor in the university, if they could be combined?

Mr. KERR. I could give you an idea.

Mr. GOODWIN. That is what I wanted. I did not expect to be exact.

Mr. KERR. The classes in both institutions in the third year branch would be conducted by one man. The same is true in regard to third year German, the classes being small. There could be one man in mathematics; there could be one instructor at least in mathematics; there could be one instructor in English; there would probably be one professor

in chemistry, because in the advanced classes there are very few students. If the institutions were combined one professor could now do the work done by two. In history and political science the same would be largely true. I could not tell without having just the number of students of the different classes. There could be little reduction in the instructing forces in the preparatory department of both institutions, because the instructors in these departments have now practically all they can do and the classes could not really be increased. It would be in the advanced that a reduction could be made.

Mr. GOODWIN. Is it not true that preparatory classes are gradually passing away and the high school graduates gradually filling up the university?

Mr. KERR. It is the ambition of the university authorities and I understand also of the college to do away with the high school courses as soon as there are high school facilities. It is only a matter of necessity now.

Mr. GOODWIN. Of course you could not tell how many of these fifty-eight professors you think could be done away with?

Mr. KERR. Well, it would be six or seven, possibly ten.

Mr. GOODWIN. That would mean fourteen thousand dollars a year at the reduced rate they are working for now.

Mr. HAMMOND. Mr. Chairman, before this question is put, I want to state how I stand upon it, if I can tell. When the agricultural college was established at Logan I thought it was one of the finest things that could be gotten up for the education of our girls and boys to get a practical education. I was pleased with it, gratified with it, and at our late visit, as you may have heard of, visited the college and the grounds. We were entertained so delightfully, shown through all the different departments, and everything seemed to be going on so complete that I felt it was a good thing to keep the college there—

the girls drilled for us—I felt shocked two or three times when they were going through their manual of arms. I felt committed that was the proper thing to do—keep these institutions separate. But, sir, I have continued in that frame of mind until this morning; when we heard the speech from Professor Kerr, I began to weaken and have kept weakening ever since, until now I am prepared to vote for union of these institutions and have one grand center for the Territory for all the counties to send their pupils and have them educated in the industrial arts, up to their highest point that education may aim at. Therefore, I felt to reverse San Juan for once and vote for union.

The question being taken on the motion of Mr. Anderson, the committee divided, and by a vote of 35 ayes to 34 noes, the motion was agreed to.

The CHAIRMAN. This amendment having carried, it will be unnecessary to put the other from the fact that this would take precedence and determine that question.

Mr. GOODWIN. Mr. Chairman, I move that the words, "state normal school," in line 5, be stricken out and added to the end of line 8, after "stations."

Mr. ANDERSON. Mr. Chairman, I will move an amendment to the amendment, by striking out the words "at one place," and insert "Salt Lake City."

The CHAIRMAN. The words "at one place" are not there.

Mr. ANDERSON. To fill the blank with "Salt Lake City."

The CHAIRMAN. This motion of yours is not at all germane to the motion of Judge Goodwin. Therefore, I will call the question on his motion first.

Mr. CANNON. Mr. Chairman, I am opposed to the motion to strike out and insert these words in the place indicated, for the reason that the state normal school should, I think, be connected with the university. I believe that for

all time, or at least for a great many years to come, the state normal school can be conducted in connection with the university for a very great saving. The cost will not be nearly so great. I think this is in accordance with experience of educators in recent times. I have here the report of the department of the national education association at its recent meeting, in Cleveland, Ohio. I do not desire to enter into a lengthy argument upon this, but this is the trend of modern thought upon this subject. Normal schools are connected with universities and the best results follow in that way.

Mr. GOODWIN. Mr. Chairman, I want to say that there is not an eastern state to my knowledge—there may be one or two exceptions, but I think not, but what have their normal schools by themselves. It is peculiarly a state institution, and my proposition is not to separate these things now—separate the normal school from the university, but to fix it so that if the Legislature, ten or twenty years from now, desire to do so, they can. They do it when they deem necessary.

Mr. SQUIRES. Why not leave the words, "normal schools," where they stand in the section and add the words to the other line?

Mr. GOODWIN. Well—

Mr. PIERCE. Cannot you make a proviso like this, "Provided that branch normal schools may be established in other places?"

Mr. GOODWIN. I do not believe in branch normal schools.

Mr. PIERCE. Well, then, still have it with the university.

Mr. KERR. If you would leave the "state normal school," in line 5, as it was originally, and then add after "stations," in line 8, "and state normal schools," I should support your motion.

Mr. GOODWIN. That is all right; I accept that.

Mr. THURMAN. Mr. Chairman, I

move to strike out the section, and upon that I desire to be heard for a moment. I believe that this question ought to be left in its fullest extent to the Legislature. We are about to attempt to provide in this section that the Legislature shall never have any power to establish any department or branch of the university for any place other than the one place that we name here. Do we want to bind the Legislature of the Territory of Utah through all time to establish either department of the university at one particular place with the exception of the state normal school for instance, if that amendment should carry? Do we want to leave it so that the other departments and institutions that may hereafter be established by law shall forever be at one and the same place, where the school of mines is established? The fact of the business, Mr. Chairman and gentlemen, is simply this, we have been by this proceeding here catering to a sentiment that ought not to have had consideration by this body. I challenge the gentlemen on this floor to find any one constitution in the states of this Union, except Massachusetts, whose institution had already assumed vast proportions, amounting in value to millions and millions of dollars, and Idaho on the north—I say I challenge you to find where any other state or people in the United States, at the time of framing their fundamental law, have undertaken to declare that the institutions of learning of the state shall be at any particular place. I further make the point, gentlemen, that you will not find in any of the constitutions anywhere in the United States, anything to warrant the action that we have just taken—that is, to say in the constitution that there should be a separation of the institutions of learning. You will not find in any of the constitutions of the states in the United States that there is anything to warrant the idea that the constitution makers intended that the institutions of learning

should all be at one place or that any considerable proportion of them should be at one place.

The fact of the business is, gentlemen, the constitutions of the several states have left the institutions exactly as they found them, without confirming, without making any declaration that such and so shall always exist, but leaving it to the legislature in whose hands the founders of these states had supposed all the institutions of learning would be absolutely safe. What are we trying to do? We are trying to say here, perhaps centuries in advance, that these institutions shall be confined to some one particular spot of ground within the commonwealth yet to be determined, instead of leaving our Legislature to proceed and establish perhaps the principal branch of its university here in Salt Lake, as there is already a start in that direction, and leaving it in the course of time if it sees fit to establish another department or branch of the university somewhere south as a convenience for the people or somewhere north as a convenience for the people. It is proposed here to say that all of the departments except those that we expressly name shall be located at some particular place. But it has been said we must forever end this dissension between Cache and Salt Lake. The university does not belong to Salt Lake; the agricultural college does not belong to Logan, and it comes with very poor grace for either of those counties or the delegates of those counties to stand upon this floor or in the halls of legislation and assume for a single moment that they own any more rights and privileges in regard to those institutions than any other portion of the Territory. And, gentlemen, that very feeling and sentiment has had a tendency to create a prejudice in relation to this matter, and I want to say to you now, and I say it boldly, if it had not been for the last two or three years a contention going on between

these factions in respect to these institutions, no one would have ever dreamed of standing up in this Convention and asking that the particular place for either the university or the agricultural college be named in the Constitution, because, as I have said to you before, you will not find a precedent for that anywhere in the constitutions of the states. The place is not named. The place is left to the legislature and history has shown that the legislature has generally taken the institutions as they have found them, on the ground where they were located before the constitution was formed, and they begin on making their grants and endowments from time to time as those institutions might need them. And so we will do in Utah, if it is left just as it is. The more we appropriate money the more the place takes a firm hold upon the people of the Territory, and the more loth we are to surrender that place, pull up stakes and commence anew. And so I say that this ought to go out, and instead of having this Convention here in order to gratify a sentiment from the north and a sentiment here in Salt Lake—a sentiment, gentlemen, which ought not to exist in relation to these matters. I say leave it to the Legislature and let the Legislature settle it when they get ready to settle it; it is more proper for them to settle it than it is for this Constitutional Convention to settle it, because if we undertake to settle it we are going to bind our Legislature upon this proposition hand and foot, and we will wish some day that upon this vital question we had left the Legislature a little discretion.

Mr. ELDREDGE. May I ask the gentleman a question? Did I understand you to say that the constitution of no state made the location of the university and the state capitol?

Mr. THURMAN. Well, I did not say anything about the State capitol.

Mr. ELDREDGE. The university?

Mr. THURMAN. I thought I excepted

Massachusetts, and I will except, if I did not, Idaho.

Mr. VARIAN. Massachusetts does not do it. It simply confirms it.

Mr. ELDREDGE. How about Wyoming?

Mr. THURMAN. Wyoming says the establishment of the university is confirmed, and we have said that by our vote on section 4.

Mr. THATCHER. Did I understand the delegate to say that there had been a rivalry between Cache County and Salt Lake on these institutions?

Mr. THURMAN. I have understood there has been a contention.

Mr. THATCHER. I have also understood that. Therefore, would it not be the part of wisdom for this body to stop it?

Mr. THURMAN. I do not think so. I do not think we ought to pander to that sentiment. I do not think because some delegates are contending for one thing in one part of the Territory and some have an opposite thing in another part of the Territory, that in order to decide that case between them, we should depart from the regular course in this Convention, in order to determine a squabble between two factions.

Mr. EICHNOR. Mr. Chairman, if it is desired to strike out the section, of course that cannot be foretold; I hope first that the amendment of Judge Goodwin will prevail, because that is in accordance with the Enabling Act, section 11. That presupposes that more than one State normal school should be established. That can easily be accounted for in this way. This Enabling Act is modeled after the various other enabling acts under which the western states have come into the Union. They were mostly prepared by eastern men. In the eastern states, the state normal schools number as high as ten or fifteen in a state. With all due respect to my friend, Mr. Cannon of Salt Lake, I will say, notwithstanding the fight that some men have made against the state

normal schools, and I say to-day they are the institutions that are in touch with the people of the eastern states; they are the institutions that furnish the teachers for the states, and no matter what onslaught has been made on them they will flourish for many years to come. And that is the intent of this Enabling Act, when Utah is able to establish more than one State normal school—that is the object of granting one hundred thousand acres of land, and I think Judge Goodwin is right in line with the provisions of the Enabling Act.

Mr. ROBERTS. Mr. Chairman, it occurs to me, sir, that the objections urged by the delegate from Utah County, that the Legislature would be forever tied up in establishing branches of the university or agricultural college in other parts of the Territory, does not hold good if the amendment offered by the gentleman from Salt Lake, as to state normal schools, shall carry. Because if that amendment shall prevail, and I hope it will prevail, the Legislature will be at liberty to establish and to provide for the maintenance of state normal schools in other places than at the location of the university of Utah. I know not in what regard the gentleman from Utah holds the agricultural experiment stations, but my understanding is that they constitute a part and are branches or would be branches of the agricultural college, so that the Legislature would only be restricted in these matters of educational affairs to remove the agricultural college and the main department of the university from the location that this Convention may give them. Now, sir, I am not in favor of his amendment to strike out section 5, for the reason that I think we ought to settle this rivalry, if such you call it, existing between the county in the north and Salt Lake; not in the way of pandering to that feeling, or to cater to the sentiment which provokes it, but I think, sir, that we ought to.

settle this question in the interests of our educational institutions, separate and apart from any sentiment of rivalry that may exist between these two parts of the Territory. It is not to mollify or not to meet the wishes of delegates from the north and the people of the north, that I favor settling this controversy, nor to cater to the sentiments and wishes of the people of Salt Lake City, that I wish to settle it, but it is in the interests of our educational institutions, which have been injured and are being injured and which will be injured in the future if this thing is left open to be agitated by future Legislatures, and for that reason I insist now, as I insisted before when discussing these propositions, that the time to settle this controversy is right here upon the floor of this Convention and now, so that these institutions at least may go to work with an assurance that they will be permanently located, and what means they have they can apply in the best manner for the furtherance of the interests of those institutions and can firmly rely upon this fact, that they will not be disturbed as to their location. And I urge gentlemen now to continue in the line that we have begun, adopt the amendment offered by the gentleman from Salt Lake; fill in the blank here as to the university; and also fix the location of the agricultural college likewise.

The committee of the whole then rose and reported as follows:

Mr. President, your committee of the whole beg leave to report that they have had under consideration the article on education and report progress.

The Convention then, at 5:14 o'clock p. m., adjourned.

FIFTIETH DAY.

MONDAY, April 22, 1895.

Convention was called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Attewall Wootton, of the Church of Jesus Christ of Latter-day Saints.

Journal of the forty-eighth day's session was read and approved.

File No. 376, signed by Andrew Funk and 35 others, from Brigham City, asking that woman's suffrage be submitted as a separate article to a vote of the people, by Gibbs of Box Elder, by request, was presented.

Mr. ALLEN. Mr. President, I wish to make a motion, and before doing so it will be necessary to make a few remarks. The Convention will remember that when we passed section 4 of the article on elections it was left in such a manner that the election for judicial officers would be as a separate election—separate and apart from all other elections. Since this was passed, I believe that a great majority of the members have considered that it ought to be changed. I have heard a great many express themselves to this effect, and in order to do this I presume it will be necessary to suspend the rules and reconsider, and therefore I will make a motion that we now suspend the rules and reconsider section 4 of the article on elections, and section 4 only.

Mr. SQUIRES. Mr. President, I do not believe that would be quite wise from the fact that there are so many absentees this morning. It would look something like taking snap judgment on those who are not present.

Mr. EICHNOR. It is not Mr. Allen's idea to press it to a vote this morning, I believe.

Mr. ALLEN. This will not interfere with the school elections in any way, nor with the municipal elections, but it will save the expense of this extra election. It was considered by those that favor the section as it was that it made the election non-partisan, but I have heard a great many of the members here express themselves to this effect, that they would not vote for a judge of

another party to be judge of their district. I believe that if each one of us had to bring it to ourselves and say whether we would be willing to vote for a judicial officer of the other party, I do not believe that there is scarcely a man here that would think that he was willing to do it. Therefore, it would be useless in my opinion to try and make it non-partisan. And this extra expense is something worth considering, and if we have got a few thousand dollars to throw away every few years, why, let us give it to the schools, where it will do some good.

Mr. GOODWIN. Mr. President, I hope that motion will be postponed until after the article on judiciary has been considered and adopted. I hope by that time my friend will see new light. Nearly all the lawyers are absent from the Convention, and some of them I presume would like to give their ideas before this thing is brought to a vote. In regard to the last remark of the gentleman, I want to say that if two gentlemen are running for the office of judge and one of them is a republican and I thought he lacked the essential qualifications for a judge, either in character, or ability, or in the character of mind that he possessed, and the gentleman on the other side, a democrat possessed, those qualities, I should not hesitate one second to vote for a democrat, and I think I am perhaps as strong a partisan as anyone in the house. The very idea of that election of judges on separate day was to withhold that office out of politics. There are some republicans who would make good judges; there are some others whom I do not think would make very good judges, but possibly we might vote for them to retire them, and as bad as the democratic party is, there is occasionally a democrat who would make a first class judge. It is the tendency of men to get on the bench politicians—men that run for a political office, that expect to put up assessments, to attend primaries,

to rustle with the boys, and after this year, with the girls. I would keep the office of judge separate from all that. And certainly this motion this morning, inasmuch as there is no haste, and nearly all the legal profession are absent from the Convention, ought to be postponed. When the right time comes, I shall be glad to see it sprung and find out how this Convention stands, but not this morning.

Mr. HART. Mr. President, I think that this is a motion that is worthy of consideration. I think it would be well to leave it until some other time, and I therefore make a motion to lay the motion upon the table. It can be taken up by a majority vote at any time and considered.

The motion of Mr. Hart was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Ricks in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, we were considering section 5 of the article on education and school lands. There are two motions before the house, one of Mr. Goodwin, that state normal school be added to line 8, after the word "stations." The other motion is that of Mr. Thurman to strike out section 5.

Mr. MAESER. Mr. Chairman, although I am committed to the union of these both institutions, the university and the agricultural college, but as this has been voted down temporarily, I sustain Mr. Goodwin's amendment to take the state normal school out from that place, and put it where he has suggested it, for this reason, I am on principle opposed to normal colleges—normal training schools, being located in large cities. In normal training schools we are training teachers for our common schools. It is not only the knowledge that we require of them, and have to take into consideration, it is their character, their moral standing, which

is the greater part of their efficiency, because these teachers are expected to formulate or at least help formulate the character of the generation that is rising up.

If you place a normal college in a large city, where the young people of both sexes, after the exercises of the day are over, are not only entirely outside of the control of the professors and the faculty, but also are exposed to all kind of inducements, enticements, allurements, and influences of an exceedingly questionable nature, and wise governments have seen this point long ago, and wherever it has been found possible normal colleges have been located in smaller places, where the students of that college can be kept under measurable control, so that not only their intellectual advancement can be taken into consideration under the care of their professors, but chiefly and more so their moral standing, the development of their character. I would sooner trust my child to the exposure and expose her to any infectious disease and trust to the skill of medicine, or the faith within me, to rescue them from the snatches of death, than expose my child to the influence of an immoral teacher. And the majority of the parents feel like that. In order to know this and have that security that the children of our people are under the influence and guidance of teachers that can be trusted, we must have their training in such localities where we have the assurance, to some extent at least, that the young people there are free from those allurements which great cities are full of, and therefore, I sustain fully, if the union of the two institutions, which I sustain for financial reasons only and absolutely and only on financial grounds—there is another reason why I advocate a union of these two institutions, except a financial reason; if the union can be effected, then I strongly sustain Judge Goodwin's amendment and would do my very best

to have also the normal college separated from the university.

The motion of Mr. Goodwin was agreed to.

The CHAIRMAN. The question is now upon the motion to strike out the whole section.

Mr. GOODWIN. Mr. Chairman, a great many of the delegates are absent, especially those more particularly interested in this particular section than any others, and I suggest to the committee that we pass for the time being and go on to section 6.

The CHAIRMAN. If there is no objection, we will pass that.

Section 6 was read.

Mr. GOODWIN. Mr. Chairman, this section refers directly to the preceding one, and inasmuch as it will be necessary to amend it in case the preceding one should be stricken out, I suggest we pass on to section 7.

Mr. PIERCE. Why would it need to be amended? I do not see any reason why it should be amended.

Mr. HART. Mr. Chairman, I think, too, we should pass that for the reason that while the section as it now stands would refer to the university of Utah and all the colleges that it might comprise, yet we might have to amend this if the two institutions are kept separate.

The CHAIRMAN. If there is no objection, then, we will pass section 6.

Section 7 was read.

Mr. EICHNOR. Mr. Chairman, I offer a substitute for section 7, "If through neglect, misappropriation, or any other contingency, any portion of the educational funds set apart in this article shall be diminished, or lost, the State shall replace such portion so diminished or lost."

Mr. PIERCE. Mr. Chairman, I do not see anything accomplished by that section that is not accomplished in section 7. Section 7 provides that the State shall keep the funds intact; that is all that is accomplished by Mr. Eichnor's

section. The purpose of section 7 is so that the State shall require its officers who handle the school funds to give proper bonds and that the State will assume the responsibility of suing upon the bonds.

Mr. EICHNOR. That is exactly what I am getting at. We want a constitutional guaranty that whenever this fund is diminished through any contingency whatever, the State will replace the fund, not only guaranteed them by the bonds and then suing on the bonds, when possibly the bondsmen are worthless. That is the point I want to reach.

Mr. PIERCE. What do you mean by the word "guarantee," in line 7—if the State guarantees them, is not its credit back of it?

Mr. EICHNOR. It does not state how it shall be guaranteed. They might guarantee by the bonds and then sue on the bonds, and then the bonds are worthless. This is a provision that has been formed under enabling acts like ours. This substitute is a little different, but, gentlemen of the committee, it simply comes down to this, whenever the educational funds enumerated in this article are diminished through any contingency whatever, there is the constitutional provision that the State must replace the funds. There is the provision in plain Anglo-Saxon. There is no chance for a quibble.

Mr. KERR. Mr. Chairman, I am opposed to the substitute for the reason stated by the chairman of the committee on education. If the State guarantees the school fund against loss, it makes no difference in what way the fund may be diminished. The State must make up whatever loss there may be, either through deflection or in any other way. And to specify the way in which the loss may take place and to state a way in which the State shall keep the fund intact, seems to me to be unnecessary. All we want is that the State shall guarantee the school fund against loss or diversion. I cannot see

that the substitute covers any more ground than the section.

Mr. EICHNOR. Under section 7, how is it guaranteed? Why not say that immediately whenever there is a loss that the State will replace the fund? Then we are sure the fund will be safe through all the years to come.

Mr. KERR. I will answer that question by asking if it is not true that in this Constitution a provision is made that the State shall guarantee this fund against loss, that it is made mandatory upon the State to make up any loss without our stating the way in which it shall be done?

Mr. EICHNOR. Correct, Mr. Kerr; at the same time, does it not require a legislative provision in this to make section 7 operative, while the substitute gives us a constitutional guaranty that the fund will be replaced?

Mr. KERR. Is not it true that there will be a provision in the article or some other part of the Constitution making it mandatory upon the Legislature to enact such laws as will enforce all the provisions of the Constitution?

Mr. EICHNOR. That may be and may not. I am not on that committee, but if it is mandatory, you cannot force the Legislature to do it.

Mr. KERR. I would like to ask as to whether the substitute could be enforced without legislative enactment, any more than the original section?

Mr. EICHNOR. Well, Professor, if the Constitution guarantees it so plainly, if the Legislature wanted to violate the oath they take, why, of course, I presume they could do it.

Mr. BOWDLE. I want to ask Mr. Eichnor a question. Suppose the whole fund should be impaired and suppose that it should be drawn upon by the authorities and a portion of it used, which is prohibited here under your substitute, is it your idea that the State must replace that?

Mr. EICHNOR. Yes, sir; when the State lets this fund be diminished, through

negligence, or any other way whatever, I say it is the State's duty to replace it, because that is what we get the allowance for from Congress; that is exactly the point.

Mr. BOWDLE. If that is the purpose of the substitute and if it will work to that end, in case the State lets it become depleted by using any portion of it—that the State will make it good, I would be in favor of it, but I cannot see it in that light. Suppose you used a portion of the principal for the purpose for which the interest is intended, that would be a diversion?

Mr. GOODWIN. May I ask Mr. Eichnor a question? Suppose you were to endorse on the back of a note, "I hereby guarantee the payment of the within note," would it add any to the strength of the note to say, "and I will pay it myself if necessary." [Laughter.]

Mr. EICHNOR. No.

The substitute was rejected.

Section 8 was read.

Mr. MAESER. Mr. Chairman, I move an amendment to section 8; strike out everything after the words, "public instruction," on line 4, and substitute instead, "and such other persons as the Legislature may hereafter provide." The reason for me making this amendment is, this section as it stands now takes the appointment and selection of these officers constituting the board of education entirely out of the hands of the people, placing it in hands entirely beyond the people's control. I would like to have the people to have a word to say in this matter, that concerns them so very much, and the Legislature could from time to time as our circumstances change, the population increases, either add to or diminish, as the case may be, and the circumstances require, the number of persons constituting that board of education. That is the reason why I did not propose, in stating the number, leaving this also to the Legislature, so that from time to time that board of education may be as efficient

as circumstances may require. I have considerable confidence in our Legislatures and a great deal of confidence in the people—in the sound judgment of the people. If mistakes are made, as they have been made and as they will be made again, they can easily be rectified naturally, but if it goes into the Constitution, it is a very difficult thing to rectify mistakes there.

Mr. PIERCE. Mr. Chairman, I am in favor of Mr. Maeser's amendment. This section was placed in the article at the urgent request of quite a number of people, but I find since examining the matter very carefully that they are not so particular about it as they were and it seems to me the section as it stands is rather too cumbersome, and it better be left to the Legislature. Of course, with Mr. Maeser's amendment, it leaves the superintendent of public instruction on the board. There is where he ought to be, and then leave the rest to the law.

Mr. KERR. Mr. Chairman, I move an amendment to the amendment by striking out the word "hereafter."

The CHAIRMAN. Will you accept it?

Mr. MAESER. Yes, sir.

The amendment of Mr. Maeser was then agreed to.

Sections 9 and 10 were read.

Mr. PIERCE. Mr. Chairman, I want to put in an amendment, insert the word "and," so that it will read, "institutions for the deaf and dumb, and an institution for the blind." The reason for this is that those two institutions have special grants made to them in the Enabling Act. As it is now stated, it would indicate that it is intended as one institution, whereas two separate grants have been made.

Mr. KERR. If the amendment prevails, it will be possible for the Legislature to unite these two institutions, will it not?

Mr. PIERCE. Yes; I understand that they can. They can be supported together, but the fund from the various

lands must be used in the line of the grant, that is all.

The motion was agreed to.

Mr. THORESON. Mr. Chairman, I move to strike out line 12 of that section, "secured by the State against loss or diversion." We find in section 7 that all public school funds shall be guaranteed by the State against loss or diversion. I think that covers the question.

Mr. PIERCE. Mr. Chairman, that would hardly do, for this reason, that in the Enabling Act there are three different grants for educational, charitable, and penal institutions. I think it is a question as to whether this school for the deaf, dumb, and blind, could be classed with the public educational system, and it seems to me that it would be better to leave the section in there as it is.

Mr. THORESON. With that explanation, I will withdraw it.

Mr. PIERCE. Mr. Chairman, I move that the word "secured," in line 12, be changed to "guaranteed."

The amendment was agreed to.

Mr. KIESEL. Mr. Chairman, I have an amendment to section 1. After "law," in line 2, insert, "and shall be located at Ogden, Weber County, Utah, provided that the city of Ogden furnish a site and necessary buildings free of cost."

Mr. HAMMOND. Mr. Chairman, I move to amend by placing it in San Juan.

Mr. KIESEL. Mr. Chairman and gentlemen of the committee, in support of this I wish to say that our people at Ogden are taking a keen interest in this institution, and we have a splendid site and necessary building, all of which we shall convey in fee simple, free, to the future State, as a gift from the city of Ogden, for the deaf, blind, and dumb. Now, I hope there will not be any one of you that will object to this, because this is a very generous offer.

Mr. SQUIRES. I would suggest as an amendment to that, instead of

"free of cost," that it read "without expense to the State."

Mr. KIESEL. I will accept that.

Mr. BOWDLE. That would be a temporary matter, would it not? That it could be changed at any time by the city of Ogden. There is no fee to be given to the State under that provision; no property to be sealed to the State. It is simply to go over to Ogden, transfer their pupils, deaf, dumb, and blind, there, and Ogden is to furnish a place to take care of them; that is all there is of it. Now, if the gentleman will do something towards ceding to the State that property for that purpose, then, perhaps, I would not object.

Mr. KIESEL. I will second the motion to that effect.

Mr. BOWDLE. I am in favor of that proposition if that will be done.

Mr. HART. Mr. Chairman, it seems to me it would be as well to leave that; it seems to me it is trenching upon the proper domain of that to deal with the question of the location of the institutions that are assigned to them by the very formation of the State. I favor consideration of the question, but it would have to come up in the proper way.

Mr. L. LARSEN. Mr. Chairman, I move that the amendment be laid on the table.

The CHAIRMAN. The chair will rule that that motion is out of order.

Mr. RALEIGH. Mr. Chairman, I would like to say that an institution is located and built for the deaf and dumb in this city, and I do not see the propriety of naming some other place. Hence, I am opposed to the amendment.

Mr. LUND. Mr. Chairman, I am opposed to that going into this section for the reason that it seems to be a bargain—provided that something else is done that it shall be inserted in our Constitution. It does not seem to me it is finished. It ought, as a bargain, to be brought before the Legislature and see what they desire to do with it. It does

not seem that we have any guaranty here when we use that word provided. I would ask with, Mr. Kiesel's consent, if he can make it absolute that the city will cede?

Mr. KIESEL. If you second my motion for it, I say that they will make it absolute.

Mr. DRIVER. Mr. Chairman, this thing has come upon me very suddenly, but I have no doubt in my mind but what the honorable gentleman from Weber, Mr. Kiesel, is fully prepared to guarantee all that he has promised in the name of the city of Ogden, and it seems to me that it is a very generous offer. We have been discussing the matter of no revenues during the last three or four weeks when this Territory shall be admitted into the Union as a State, and the buildings will be necessary for this institution. Ogden City has offered this site and building free of cost. I think it is only right that this committee should consider the generous offer from Ogden City and endorse Mr. Kiesel's proposition and vote unanimously to establish this institution in the junction city. I think it is only right. I think it is due to Ogden City that this thing should be consummated. She has rights and claims; her generosity has been second to none in all her gifts towards establishing enterprises in the past, and I am sure whatever Mr. Kiesel promises with regard to this matter will be fully established and Ogden City will guarantee all that he has said. And I hope that his amendment will prevail and that this institution will be established in Ogden City.

Mr. CREER. Mr. Chairman, I am opposed to this amendment. I am opposed to this Convention entering into contracts with any local or sectional part of our State, by way of guaranty or otherwise in this manner. I think it is a very bad principle to introduce in our fundamental law, to say that by certain inducements or guaranties, we will establish any institution at any

particular part of the State, but I would be willing in the course of my remarks—I suggest how I think it would be competent to amend this, that an institution for the blind shall be established and located as provided by law. That will leave it for the Legislature to locate it hereafter, but I think it is very bad practice indeed to say that we will enter into a contract or deal with Ogden City, or any other city of this new State, by way of guaranty or contract. I think it would be better to introduce that amendment, and therefore, if this should be voted down, I shall expect to offer that as an amendment.

The CHAIRMAN. I understand Mr. Bowdle does not intend to offer an amendment, therefore this would be in order.

Mr. CREER. Then I offer to amend so as to introduce after the word established "and located as provided by law."

Mr. SQUIRES. Mr. Chairman, before I vote on this proposition, I would like to ask the gentleman from Ogden, Mr. Kiesel, if the city of Ogden is now in possession of a site and building which are appropriate for such purpose or whether it is all in the air and to be provided later, and then what guaranty the State would have that buildings such as would be absolutely in keeping with the business and purposes of this section would be provided by the city? I agree with the gentleman from Utah, we are hardly in a position to make a contract with the city of Ogden, or with any other city along this same line. If a matter like that is to be put through, it seems to me that the Legislature would be the proper medium of doing it. Now, if the gentleman has any definite information that he can furnish to the Convention I wish he would furnish it, so that I can have something to vote upon.

Mr. KIESEL. Mr. Chairman, in answer to the gentleman's question, I want to say that there is a site in Og-

den known as the military academy, some ten acres of ground, beautiful buildings, it is suitable, much more so than the present place which the children now occupy, and the site is well known to the parties now having charge of the deaf, blind, and dumb institution; they are highly in favor of it, and there is a pathetic appeal from those children to have that transfer made, because they have got large play grounds there—ten acres, all nicely planted and it is a beautiful building, containing some sixty odd rooms, with all the necessary outbuildings, gymnasiums, shops and nice parade grounds, and campus, dining rooms, school rooms, everything just up in modern style, they could not get anything better. The children have petitioned for it. They want it. They are familiar with it, and the gentlemen in charge of the institution want it, and hope you will not hesitate a moment, because you will never get such an offer again in the world.

Mr. GOODWIN. In what does the title to this property lie?

Mr. KIESEL. The title just now is in a corporation in Ogden, and who are willing to immediately deed to the city. I have control of it.

Mr. DRIVER. I have a few hundred dollars in it.

Mr. GOODWIN. I would like to state an amendment to see if those gentlemen will not withdraw theirs—that the institution shall be established by law at Ogden. There is no bargain in that. Mr. Kiesel has given his word that it shall be done.

Mr. KIESEL. Yes; you can take my word. I will enter into a bond.

Mr. DRIVER. Mr. Chairman, I am a stockholder in that institution and I am willing to donate all I own in it.

Mr. GOODWIN. I would like to ask where this site is in Ogden?

Mr. KIESEL. It is right on a street car line, at a place near Five Points; within the city limits—a beautiful site.

Mr. SQUIRES. Out towards the warm springs?

Mr. KIESEL. It is within the city, perhaps two miles from the city hall, right on the street car line, with cars every fifteen or twenty minutes.

Mr. SQUIRES. In the direction of the warm springs?

Mr. KIESEL. In that direction, yes, sir.

Mr. BUTTON. I would like to know what the facilities are with regard to water at this place?

Mr. KIESEL. It has water works of its own, by gravity—plenty of water there for all purposes, and it is a model structure throughout. I think it cost thirty-five thousand dollars outside of the land.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I am in favor of the proposition of Mr. Kiesel. When we went to Logan the other day, I was told by our present governor that he had investigated this subject somewhat and he called attention to a proposition which was made I believe to the last Legislature or the one before the last, that affected this very proposition, and from the manner in which the governor described this institution to me and its location, I think it would be one well fitted for the institution named.

Mr. GOODWIN. Was that description going up to Logan or coming back? [Laughter.]

Mr. CANNON. The description I will state was coming back. [Laughter.] And while it was painted in pretty glowing colors, I am satisfied that I got the true meaning of the gentleman and shall favor the proposition of Mr. Kiesel.

Mr. THOMPSON. Mr. Chairman, if there is any doubt in regard to the proposition of Mr. Kiesel being made good, in the minds of the members, I will say that Fillmore is a very good situation for such an institution, and they have a building already erected

there at a cost of about fifty thousand dollars—a permanent, solid, rock building, with a hall forty by sixty and some sixteen rooms below, and an upper story. The hall is located in the building, and it is a very good climate, situated in the center of the city—near the center of the public square, and it is a very healthy location, and the water is very good in that part and the building already belongs to the Territory, and will be ceded I presume to the State. With some little improvements it can be made a very suitable building for that purpose.

Mr. SQUIRES. How far is it from the railroad?

Mr. THOMPSON. It is about fifty-four miles, but the prospects are that in the near future we will have a railroad.

Mr. EVANS (Weber). I would like to ask how old that building is you speak of?

Mr. THOMPSON. Well, it was built in an early day, but it is as solid to-day as it was the day it was built. It is built rather on the ancient style, but a little expense will do it.

Mr. IVINS. Mr. Chairman, I understand this is all out of order. There is no motion to take this institution down to Fillmore. I want to say in regard to the amendment offered by the gentleman from Weber, Mr. Kiesel, that this question was before the last Legislature; it was very carefully considered by committees and in committees of the whole, and they saw fit to take no action upon it. Now, these statements made by Mr. Kiesel, I do not regard as determining anything. He says the people in charge of the deaf mute institute here want to go to Ogden. We do not know whether they do or not. I am opposed to taking action in an important matter of this kind without more information before this committee than we have. I say, in connection with this, and gentlemen from Ogden well know it, that at the last session

of the Legislature I favored this transfer because of the proposition that was made and I believe it to be a good thing; I believe that it may be done and probably will be done, but I contend, gentlemen, that we have no information before us here sufficient this morning to act upon it, and I therefore am not in favor of all these amendments. I believe it ought to be left just as it is.

Mr. EVANS (Weber). Mr. Chairman, I know that the proposition which Mr. Kiesel makes is one which is made in good faith. He is that kind of a gentleman, who, when he make a proposition will stand by it, and always does. There will be no difficulty at all about this matter. I, however, rather favor the amendment offered by the gentleman from Salt Lake, Mr. Goodwin, and I believe that Mr. Kiesel himself would agree to it. It is shorter, and it does not partake of the essence of making a contract in a Constitutional Convention, but simply fixes the locality where the institution is to go, and not only that, but it leaves it with the Legislature to establish it as provided by law, and if the Legislature should be convinced that the offer which was made in this Convention by Mr. Kiesel would not be fulfilled, the institution probably would not go there, but I know that all these propositions stated by Mr. Kiesel are in good faith. I have heard him talk about it many times. The military academy now is abandoned and the house is not being used for any purpose, and Ogden is desirous of making some use of that building. Mr. Kiesel is one of the largest owners in the building. He controls it, and he can do just what he says he will do. While I do not like the making of contracts in a Constitutional Convention, I believe that such contracts made by the Legislature are for the benefit of the State, and if I had my own way about it, I should locate nearly all these public institutions just in that way. That is to say, the locality that receives these institu-

tions, whether the deaf, dumb, and blind, whether it be the capitol, whether it be the university, or any other new institution to be established, I think the locality that receives the benefits ought to do more than the people at large. For that reason, when any proposition of this kind should come up in the Legislature I think it ought to be carefully considered. There is nothing improper about making such a contract there, but I would not like to make it here. I would like to ask Mr. Kiesel if he would not favor the amendment made by Mr. Goodwin?

Mr. KIESEL. Yes; I am entirely in favor of it.

Mr. EVANS (Weber). I would like to favor that.

Mr. ELDREDGE. Mr. Chairman, I think the matter that we have under consideration is one that we should think at least once about before we act. It involves considerable of a question. I am acquainted with the grounds in Ogden referred to, and have no doubt whatever but what every obligation that the gentleman from Weber has proposed here would be literally fulfilled if this Convention should feel like accepting his amendment.

The Legislature made a visit to Ogden last winter and looked over the situation there, and it was under consideration as to whether they should not secure the site proposed at that time to be given to the Territory and move the reform school on to that ground and take the two buildings situated on the ground where the reform school is now, for the deaf mutes and blind, and if all the institutions are going to be kept up, in my judgment, it would be a very excellent thing to accept the gentleman's proposition, if we were not in a Constitutional Convention, but in a Legislature. But the question arises here, there are a number of public institutions to be located, and shall we put them up and barter them off by auction or shall we take into consideration the

locations that would be adapted for these particular purposes and the wants and necessities for establishing them where in our judgment we might see fit. Here is the location of a state capitol. There is to be a location of a territorial asylum, and of a university and of an agricultural college, and this that is under consideration, and shall we establish a precedent here that we are going to put these up at auction in order to determine the location, or shall the location be determined in the interests of the entire commonwealth, and according to the judgment and the discretion of the representatives of the people?

I appreciate the gentleman's liberality from Ogden, and as I say, I feel sure that he would fulfill it, but is it consistent and reasonable that we should accept it on this occasion? In my judgment, I say not. If so, it would be just as reasonable to us to say who will give the greatest amount towards establishing a capitol, or any other public institution that we might wish to establish, as it would to accept this proposition. It is not drawing wealth from any other surrounding country. It is only taking it from the people of the commonwealth, whether it is distributed over the entire commonwealth or draws from one section of the Territory. And to this mode of proceeding, I am utterly opposed, and so let us fix them. It matters not where it may be, if it is in accordance with our best judgment, irrespective of how much this corporation or this company would give or that company would give. I am opposed to the amendment upon these grounds.

Mr. JOLLEY. Mr. Chairman, I am opposed to the amendment to this section, and wish to give my reasons why I am opposed to it. One of them is that I do not think we ought to consider bids on these institutions. If we are going to consider bids I believe that Salt Lake City and Ogden will be able

to get all of them, the agricultural college not excepted. I believe, and I think, that we ought to establish those institutions so that they would not be agitated in the future in relation to removal and location and so on, but I think if we will remember and go back a little ways we will find that Salt Lake City has had the university and this institution that we are now talking about.

I am informed that the reform school was accepted by Ogden in preference to the agricultural college. Possibly I am wrongfully informed, but I have been informed by some gentleman on this floor, whose name I am not now able to remember, that understood the locations as they were made in times that are past. On the south, Utah County has an asylum. Now, there are the four largest counties in the Territory that have been dealt favorably with in relation to these State institutions. Sanpete County, although her vote was within sixteen as great as that of Cache, never has advocated for one of those institutions, up to the present time, while the chairman of the committee in the Legislature was from Sanpete County, and favored the location of the college at Cache County. But they wished to wait and come in their turn as being the fifth county, and I say, Mr. Chairman, we are not willing this morning that there shall be a second edition of these State institutions conceded to one of these four counties. We feel as though we have something to say upon this floor on this occasion, and we feel, although Sanpete has not offered to you a location for that institution and buildings equipped, we feel as though she has a right that should be considered here upon this floor, and we do not think that it is right for a county, because they have the means to offer those things, or for those things to be accepted and bartered off to the highest bidder. If so, I think that Weber County and Salt Lake County

will be apt to get all those institutions. We have a beautiful climate, we have less wind in Sanpete County to-day than any county in Utah Territory. Our altitude is a little high, but the climate is very pleasant. We have for building material—we cannot be compared in Utah Territory for building material. Our fuel costs us but a fraction over half what it costs in Salt Lake City to-day. Our water is good. I am opposed to the amendments that are made, and I have an amendment here, if it was in order, I would like to hand in. As I stated, while Sanpete County has not these inducements to offer before you to-day, for that institution, she has been in the past always willing and ready to do her part equal to any other of the counties according to her capital, and she will in the future do so, but she feels as though to-day it is her turn to be considered upon this floor when we come to talk about the fifth State institution to be conceded and located in any part of the Territory. My amendment is as follows:

And permanently located in Sanpete County, the exact place of location left to the votes of the people of said county.

Why I say the exact location to be left to the voters of said county is, that we are differently situated in Sanpete County to what they are in Beaver County or Salt Lake County or Cache County. We have a half dozen or more large towns in Sanpete County that are nearly equal in size, and as delegates from that county we would feel that we would not be able to satisfy the minds of the people to state the exact location, but that can be left for the people to decide, and there are a half dozen or more good locations as there is in Utah Territory for that institution.

Mr. BUYS. Mr. Chairman, I am opposed to all of these amendments. I do not think that this Convention should enter into any private contract with any person in this matter. I do not think it is right that we should do so.

I do not think we ought to say any of these institutions shall be established permanently in this Constitution, but leave that for the Legislature. The Legislature may enter into a contract for the State if it sees fit, probably, and then proper arrangements might be made for the guaranties of the contract with the person or municipality who offered the bid, but I do not think that we ought to accept bids here for any locality for any of our public institutions. And I do not think that we should establish these institutions, but leave the section as it is here in regard to these institutions. I think we should leave it as it is here and then it can be established as the Legislature may see fit. I am opposed to all the amendments.

Mr. PIERCE. Mr. Chairman, I am in favor of leaving the section as it is, for two reasons. In the first place the school is well situated now and in good order. It has the proper buildings and is in good running order. It is all right to leave it as it is until another Legislature meets. This Constitution will be voted upon in November, and there will be only two months before the next Legislature meets, if the Constitution is adopted. Within that time, if the people of Ogden have a proposition to make to the Legislature, they have sufficient time to do it and there is nothing lost. I think it unsafe and unwise to amend the section as stated.

Mr. L. LARSEN. Mr. Chairman, I do hope that the amendment of the gentleman from Ogden will not prevail. I hope that this committee will consider this matter carefully before they vote upon it. Now, I have a word to say in favor of Sanpete County. It is the heart of this Territory. It is a more central point than any other part or location of this Territory. We are away south of Salt Lake and of Ogden, but it is the central portion. We have got no public institutions there, and to vote to-day to send another public in-

stitution to Ogden, when they have got the reform school to-day, I do not think is in harmony with the ideas and views of the people of this Territory, to shut off other parts who are as much entitled to a boon of this kind as they are at Ogden. We have facilities in Sanpete which are very good, and a good climate, and good water, and I have no doubt if inducements were needed but what they will be forthcoming. I have none to offer at the present time, because it is a matter that has not been talked over or considered, or, as it were, discussed, but as I say, if inducements are what are wanted, Sanpete will offer inducements, but I do not think inducement ought to cut any figure in this question whatever. I believe that these public institutions should be located where the proper places are, and this should be left to the Legislature to do, that you let them select the places and divide up these institutions properly so that they give general satisfaction to the whole people and not put them to one side, all of them, and leave those as it were alone, without any of those institutions. This will not give satisfaction in my humble opinion, and I therefore appeal to the members of this committee to consider it carefully when they vote upon this. I hope it will not prevail. I am in favor of leaving the section as it now stands, and then leave it for the Legislature in future to divide up those institutions as best they may according to their wisdom.

Mr. MURDOCK¹ (Beaver). Mr. Chairman, that you might not overlook the best location, I desire to say a word. It is quite presuming to occupy the time of the committee, but hence, as there have been different locations pointed out in the different parts of the country, I wish to call your attention to the fact that Beaver County possesses to-day the best facilities for any institution that I know of, barring one item, and that is railroad communication. It is thirty-two miles from railroad commu-

nication at the present time. But aside from that, I have in my mind in Beaver the best place that can be found for an institution of this kind, or in fact for most any other institution that we have in our mind.

Mr. THURMAN. You have got your buildings already made?

Mr. MURDOCK (Beaver). And we have got the buildings already made, and we have got every facility with the exception of the railroad communication, and that is Fort Cameron. It is suitable for any number of pupils of any institution, either agricultural or deaf mute or university, or any other institution that is necessary for the people to have in the community, and that is Fort Cameron. It has the buildings ready for the schools of any kind and the boarding houses for those that are there to take charge of the pupils. And so far as a stream of water is concerned, I want to say to-day that it has the best stream of water in Utah for its qualities—for its qualities, understand me. There are other fine streams, I realize, but when it comes to the quality of the water there is no stream in Utah that I know anything about that is equal to it, and it has a perfect forest up and down the stream and there is every facility that would make a lovely place for an institution of learning.

Mr. NEBEKER. Mr. Chairman, I do not come here with a proposition from Rich. I stand with Mr. Kiesel on this proposition, and I want to call attention of the gentleman from Sanpete and the gentleman from Beaver to the fact that if they leave this to future Legislatures, they want to keep their eyes on Rich, because Rich is liable to get away with the plum. We had better settle it now and give it to Ogden.

Mr. LUND. Mr. Chairman, I submit that Judge Goodwin has made the only amendment to this section that ought to be considered. Mr. Kiesel has made a good bid, and gentlemen of the Con-

vention, if you are ready to accept bids do not stop when you have just heard the first bid. We will bring you a bid from Sanpete, if bids are acceptable before this honorable body. That is, if you will give us two days' time.

Mr. THURMAN. Have all the time you want.

Mr. LUND. It would be very unwise to accept the first bid when you go into the bid business. There is one great advantage, though, perhaps of uniting it with the reform school. The deaf and dumb would not see nor they would not hear the bad example of those that are in the reform school.

Mr. KIESEL. I beg pardon, they would be miles apart.

Mr. BUYS. Mr. Chairman, I move that we advertise for bids and adjourn for four months.

Mr. CANNON. Mr. Chairman, I simply wish to state my position on that. I do not want to be misunderstood. In approving the amendment stated by Mr. Kiesel, I do not wish to approve his offer or anything of that character. I simply desire to state from what I had heard that the site was suitable, not that his offer was acceptable or anything of that character.

Mr. HAMMOND. Mr. Chairman, I am satisfied that the gentleman from Weber, Mr. Kiesel, is a very able and willing to make good every proposition that he has made in relation to this school and taking it to Ogden. I know him to be a democrat. Democrats generally keep their word. [Laughter.] When it comes to speaking, as my young friend here from Sanpete says, why San Juan is strictly in it. [Laughter.] It would take me too long to enumerate the inducements that we would offer for this public seat to go to San Juan. The gold, the silver, the iron, the lead—

Mr. PRESTON. The Indians.

Mr. HAMMOND. And the Indians thrown in. Now, let us take it to San Juan.

The amendment of Mr. Creer was rejected.

The question being taken on the amendment of Mr. Kiesel as modified, the committee divided, and by a vote of 18 ayes, noes not counted, the amendment was rejected.

Mr. Jolley then offered the following amendment:

And permanently located in Sanpete County, the exact place of location to be left to the votes of said county.

Mr. LUND. Mr. Chairman, in Sanpete County we are so situated that there are three cities of about the same size. I do not wish when the gentleman has asked for Sanpete County, to make it more specific for any other reason than to save the people a great deal of trouble and a great deal of campaigning, and such work down there that will create disturbance and ill-feeling, and as Ephraim is the geographical center of Utah and of Sanpete County, I would like to amend that motion by striking out that which provides it shall be located by the votes of the people, and have this Convention locate it at Ephraim City.

Mr. THURMAN. Which block?

Mr. VAN HORNE. Mr. Chairman, I have one objection that occurs to me as fixing the location in Sanpete. I do not think it was an inspiration but it just occurred to me, our deaf mute and blind started into life under very great disadvantages. They had to be peculiarly industrious in order to attain the same measure of education that a man would who had all his senses. They could not be idle and do anything of that sort, and I remember reading in the good book that Ephraim was joined to his idols, and if it be there, I am afraid they would not succeed.

Mr. LUND. Mr. Chairman, I desire, with the consent of my second, to withdraw the amendment that I made.

Mr. JOLLEY. Mr. Chairman and gentlemen, I trust that you will consider this amendment favorably. I be-

lieve this is the first time in the history of Sanpete County that she has asked for anything of the kind, and as I stated before, she has been willing in the past to concede to her older sisters those merits first, and as you are aware, we have other institutions here to locate, so there will be no county robbed that is her senior and her superior in number, but we have felt, and this is not under the impulse of the amendment that I make these assertions, but as a county we have felt that our turn would come in next in having a permanent location of one of the State institutions in our county, and I trust that you will now consider this amendment favorably inasmuch as there will be, or is in the minds of the delegates at the present time, quite generally that there should be a permanent location designated by this body of men for these State institutions that the unrest may be done away with in future time. We think that we ought to be favored at this time and we ask only from you as you would like in the same situation. I trust that you will vote one and all for the location of that institution or those institutions in Sanpete County.

The amendment of Mr. Jolley was rejected.

Mr. HART. Mr. Chairman, I move to strike out the word "law," in the second line, and insert the words "this Constitution." I think, Mr. Chairman, that this Convention should take hold of the question of the location of such of these institutions as we can locate now, and forever settle the question of the location of them. I think we should locate the institution for the deaf, dumb, and blind, the university, the agricultural college, and such institutions as we can locate.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to that motion for the reason that I cannot see what it will amount to. If we fix a permanent location there is no need for it, and if this Convention has decided not to fix that

location, then it ought to be left in there, and I believe this Convention will decide that that location is to be fixed, but it will be left to the Legislature just as provided by the report of the committee, and I hope it will so be decided.

The amendment was rejected.

Mr. MURDOCK (Beaver). Mr. Chairman, I move that the location be in Beaver County, at Fort Cameron. There are more advantages—and I will call upon any man that has ever visited the place to bear me out in what I am going to say. There is not such a place in the Territory of Utah for every facility with the exception of the railroad communication, in every particular, barns, and buildings of every description, that can be taken possession of at once.

Mr. THOMPSON. Mr. Chairman, I bear testimony to what Mr. Murdock says [laughter] in regard to that matter. If I was not an honest man I would say, except Fillmore, Millard County, but I cannot conscientiously say that Fillmore, Millard County is ahead of Mr. Murdock's proposition and place. His place certainly beats any place that I have seen in Utah Territory for such an institution.

Mr. ROBISON (Wayne). Mr. Chairman, I am opposed to this whole matter. We have been discussing that now for two solid hours, and it does not amount to one straw. We should leave the whole thing to the Legislature, and I think we should dispense with this matter and proceed to business and lose no more time.

The motion of Mr. Murdock was rejected.

Mr. VARIAN. Now, I suggest, gentlemen of the committee, that you change the reading of that section and say instead of "shall be established by law," "are hereby established," to save all question about that, and let the subsequent orthography of institution wherever it occurs be put in the plural.

Mr. GOODWIN. Would not an amendment be proper by leaving out

the word "and," so that it will read, "institutions for the deaf and dumb, and blind," etc.? I haven't got the right words, but simply to leave off the word and, and have the sentence begin, "institutions," and then read as it originally was printed.

Mr. VARIAN. I suggest that in accordance with that suggestion it read this way, "Institutions for the deaf, dumb, and blind are hereby established," and let the word "institution," in line 10 of page 4, read "institutions." That can be corrected by the committee on compilation.

Mr. HART. Would not it be well to leave the words "for the" in there also, so that it will read, "Institutions for the deaf, dumb, and for the blind are hereby established?"

Mr. VARIAN. I will write it out.

The CHAIRMAN. We will consider section 11 while Mr. Varian is preparing his amendment.

Sections 11 and 12 were read.

Mr. Varian offered the following amendment to section 10:

Strike out line 1 and line 2, and insert so that it will read, "Institutions for the deaf and dumb and for the blind are hereby established."

The amendment was agreed to.

Mr. VARIAN. Mr. Chairman, I now ask that section 2 be taken up that was passed the other day. I offer this amendment in accordance with the discussion the other day: add at end of section the following, "Provided that high schools may be maintained free in all cities of the first and second class now constituting school districts, and in such other cities and districts designated by the Legislature, but where the proportion of school moneys apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city or district, high schools shall be supported by local taxation." I ask leave to withdraw the amendment I offered the other day and substitute this in its

place. This seems to cover all the objections that were raised. It means just this, that every city or district shall be entitled of course to its proportion of the school moneys arising from the general taxation and from any other source that it may be provided for, and such city or district may use that money so apportioned, and the entire district for the maintenance of the whole system, but where it shall be insufficient to provide for the whole system, then and then only shall the high school be maintained by local taxation.

Mr. THORESON. Mr. Chairman, I submitted an amendment to that section, providing for local taxation for the support of high schools. I now withdraw that, as this amendment covers the ground.

Mr. THURMAN. Mr. Chairman, this seems to meet the objection raised by some gentlemen on this question. But it hampers the Legislature in one respect wherein I think it ought not to be hampered. The time might come in Utah that even our high schools might be supported by public taxation. And this amendment has a proviso to it that it must be by local taxation if the ordinary fund is not sufficient. I am inclined to vote for the amendment, but I shall oppose hampering the Legislature.

Mr. HART. Mr. Chairman, I am in favor of the amendment that is proposed by the gentleman from Salt Lake. My only opposition to his proposition in the first place was on account of the uncertainty to the distribution of the school fund. I think that uncertainty is entirely removed and I would have no opposition to the high school system on which I made my objection in the first place. I think now it is clearly referred to each district to say how their fund shall be used. If they want to use a portion of it for high school purposes and raise an additional fund by local taxation, they have that right.

Mr. JOLLEY. I want to ask Mr. Varian a question. How would it be

known whether there would be a deficiency? For instance, here in Salt Lake City in the past you would have out of the school fund enough to run high schools. In the far out districts and scattered settlements, where there are but a few in a place, even up to the present time, they have not been able to have the school during the whole year; where could that point be drawn?

Mr. VARIAN. The gentleman is mistaken. We never had money enough here to run high schools or the public schools. We have had local taxation and we have had to borrow money.

Mr. JOLLEY. Partially, I mean.

Mr. VARIAN. I will say my design was to leave the matter so that the outside districts can do as they please. We do not want to tread upon their toes in this matter. I drafted that as nearly as I could in accordance with the suggestion made by the different members that we might have this proviso, leaving it open to the Legislature from time to time as occasion might warrant to provide for high schools in other districts when they want them there. It seems they do not want them there now and are not able to keep them up.

Mr. THURMAN. Do you understand that any Legislature in the future, if they find the State has ability to support high schools by taxation generally, can provide for them?

Mr. VARIAN. I have not considered it from that standpoint. My mind was directed entirely to the objections made.

Mr. Varian's amendment was read.

Mr. THURMAN. I have no objection to that.

Mr. MAESER. Mr. Chairman, as the amendment of Mr. Varian fully satisfies me in regard to the common schools, I give my full consent to that also, and I vote for it.

The CHAIRMAN. The chair would like to ask Mr. Ivins if he has withdrawn or wishes to withdraw his

amendment to the original motion of Mr. Varian?

Mr. IVINS. I was not aware that I had an amendment to Mr. Varian's motion. I will state that I understood when section 2 was passed on Friday that the proposed amendments were passed with it, and the section would come before us without any amendment at all this morning for consideration.

Mr. VARIAN. You withdraw your amendment?

Mr. IVINS. Yes, sir; as I understand, it was withdrawn.

Mr. BOWDLE. I want to ask Mr. Varian one question. I do not know whether I understand the amendment fully; suppose there should only be a partial deficiency in the fund, there would be in other words sufficient funds to partially support the high school from the general fund, is that applicable to the high school?

Mr. VARIAN. I understand, Mr. Chairman, the purpose of this amendment is to permit all the moneys going to any school district to be applied to the public school system—the free school system, or to speak more precisely, to the free schools in the public school system. If in any case such moneys coming from the State or the county or from any other source which may be provided for shall be insufficient to maintain all of them, then the high school shall be maintained either in whole or in part by local taxation.

Mr. BOWDLE. That is the point. As I understood the amendment, if there was a deficiency in the fund, although there might be enough to partially support the high school, then the high school was to be supported.

Mr. VARIAN. As I understand, that is left to the district.

Mr. MALONEY. Mr. Chairman, I just wish to say that the people of Ogden think a great deal of their high school up there and they want it preserved.

The amendment of Mr. Varian was agreed to.

Mr. PIERCE. Mr. Chairman, I move to amend the section by inserting at the beginning of the section the words, "until otherwise provided by law."

Mr. GOODWIN. Mr. Chairman, I was going to make that motion and in connection with it another that a new section after the word university, in line 4—that the words after university, in line 4, may be made a new section. The motion of Mr. Pierce is all right because this limits the Legislature to establishing certain schools and does not give them any permission to establish any other. It is necessary to do it, because at present kindergarten schools cannot be established. There is no money, no houses, and there are neither means nor places for establishing kindergarten schools. Under this, without Mr. Pierce's amendment, the Legislature would be unable to establish them. I move as an amendment to Mr. Pierce's motion that the section be divided and what follows the word university be made a new section.

Mr. PIERCE. I am willing to accept that.

Mr. VARIAN. Mr. Chairman, I hope that neither amendment will prevail. I object in behalf of our high school here to leaving that matter open at all. We want to have it fixed just as we have it, leaving it to the Legislature to determine the question, and the outside when it shall be ready for it. Now, while it is true that in this section the division is made as to what school shall be free and what not, and what shall constitute the public school system, still there are no other schools as we understand it anywhere that become a part of the general rule of the public school system. There are the common, the primary and grammar schools, the high schools, and the kindergarten. We do not wish to have this matter left open to be continually annoyed by applications made to the

Legislature in aid of schemes and features which may be very good for other localities. We have established our system here at great expense, and I understand that Ogden is in the same situation, and as we have gone through this two or three times, heard all the suggestions that were to be made upon it, and we have endeavored to conform to the suggestions of the members of this Convention in the proviso that has just been adopted, now to practically undo it is what we object to. If we are going to fix it in the Constitution at all we would like to have it fixed permanently.

Mr. SQUIRES. Mr. Chairman, if, as Judge Goodwin suggests, all after the word university is put into another section so that the words of Mr. Pierce's amendment shall only affect the first section, would that have that effect?

Mr. VARIAN. It strikes me the Legislature might then strike out high schools entirely as a part of the public school system. If that is not a power given to the Legislature by this proposed amendment, what is the purpose of it? To strike out high schools entirely and strike out kindergarten, that can reduce the public school system to the primary or the grammar, or both.

Mr. ELDREDGE. Do you understand from this section that no other schools could be included than those enumerated?

Mr. VARIAN. As it stands?

Mr. ELDREDGE. As it stands.

Mr. VARIAN. That is the way I read it.

Mr. ELDREDGE. The word include—does that signify that it limits it to that?

Mr. VARIAN. Possibly they might be required to have these schools and might add others. I have not considered it from that point of view. Possibly that is so. If that is so, it obviates my objection—no it does not either; there is no necessity for it.

Mr. GOODWIN. Mr. Chairman, I was

going to say I thought I could fix this. Thirty years ago people knew nothing about kindergartens. This is a great feature now. Perhaps in twenty years there will be some other great feature. Under this section as it reads, I do not see how it could be provided for at all. So I will withdraw my amendment to Mr. Pierce's amendment and I will offer as an amendment that the words, "and such other schools as the Legislature may establish," be added after the word university, in line 4.

Mr. VARIAN. That is all right.

Mr. PIERCE. I will withdraw my amendment and accept that.

Mr. KERR. Mr. Chairman, the section as proposed to be amended would not be particularly objectionable to me, but the section, as it now stands, would include, as Mr. Varian stated, all possible grades of education. The kindergarten begins with the children two or three years old, the university receives students all the way from fifteen years up to a hundred, if persons of that age desire to enter. If it is desired to establish any technical schools, they would come under either the high school or the university, if they want any school that would either be the grammar grade or the high school grade, or the grade corresponding to the work in the university. There is no possible grade of educational work which would not come under one of the four subdivisions in this section as it now stands. We give here the Legislature all the latitude that can be desired. As I stated, because any kind of a school, technology, night school, normal school, or of any grade, can be established and come under one of these four subdivisions. I do not particularly object to the amendment just proposed, but I think it entirely unnecessary, as I believe that the Legislature is given all the latitude needed as the section now stands.

The question being taken on the motion of Mr. Goodwin, the committee di-

vided, and by a vote of 36 ayes to 34 noes, the amendment was agreed to.

Section 5 was read.

Mr. PIERCE. Mr. Chairman, I move you that the blank be filled up by inserting Salt Lake City.

Mr. KERR. Mr. Chairman, I understand that there was a motion before the committee yesterday, offered by the gentleman from Utah County, to strike out section 5.

Mr. VARIAN. Suppose the motion fails, then the judgment of the house would be that it stands just as it is. We ought to perfect it in accordance with the will of the house.

The CHAIRMAN. The chair will entertain motions.

Mr. THURMAN. I understand, Mr. Chairman, that to be the rule. I admit that I am not a parliamentarian, and the gentleman is, but anything that leads to an absurdity is not even parliamentary law. Now, the truth of the matter is here that we are amending and perfecting this section. A motion is made to strike it out. Is it not possible that another section can be put in in the place of it, after this is stricken out, or if this motion to strike out fails, is it not possible that we can still amend the section by changing the wording of it in some way?

Mr. VARIAN. I say it is possible, if the house, by a two-thirds vote, overturn the rule of parliamentary law, just as it will be possible on the final passage of the Constitution here to still change it by suspending your rules. I have the authority for it if the gentleman wants it.

Mr. THURMAN. I do not ask for authority. When the gentleman states anything upon his word, that settles it with me on this floor, but I hope that the amendment will not prevail. I will say frankly, I am not opposed to Salt Lake City having the university, but what I am opposed to is that every institution of learning, every department, shall be forever fixed and located at any

particular place. For that reason I move to strike out the section. I believe that the university as it now exists is fixed by section 4 at Salt Lake City. I believe that the agricultural college is established at Logan by section 4, and I think that at that point this Convention ought to rest; that if some future Legislature should desire to establish a branch or a department of learning, a part of the university, and locate it in Sanpete or Saint George, for convenience of the people, but under the management of the university, that it ought to have the power to do so. For that reason, I am opposed to it. Now, gentlemen, look at this as it stands. Section 4 provides that the establishment by existing laws of the university of Utah and the agricultural college is hereby confirmed. The existing law establishes the university as it is in Salt Lake City. That is hereby confirmed. Existing law establishes the agricultural college at Logan. That is hereby confirmed. There I say this matter ought to end, and section 5, which undertakes to say that every institution that ever may be established hereafter by future Legislatures, to the end of time, shall be located in some one place. And I say, gentlemen, that this Convention in my opinion does not want to do anything of the kind. Now, that is my position, made broad and plain, and consequently I stand on that ground. I have no objection to the university as it stands being in Salt Lake. I have no objection to the Legislature, if it should desire in the future to add every other department of learning here to that university and locate it here, but leave it to the Legislature, and not bind them hand and foot as we are trying to do.

Mr. CANNON. Mr. Thurman, do you understand that the word establishment as here used would also be interpreted to locate, and the two words are synonymous as applied here?

Mr. THURMAN. It would depend al-

together on how the law reads by which they are established. Now, my recollection of the law—I have not recently read it—is that these institutions are located at particular places by existing law. Now, that is as I understand it.

Mr. CANNON. I would have placed a different interpretation and asked your interpretation, because I desired to know how a lawyer would do that. You notice that in section 5 the term establishment is also used as well as the word located, making a distinction between established and located. I would like to know how the lawyers of the Convention view that, whether section 4 does fix the location as well as the establishment of the institutions.

Mr. THURMAN. So far as I am concerned, gentlemen of the committee and Mr. Chairman, if there is any misunderstanding in section 4, you may insert the word location before establishment, and leave out these terms that are unnecessary; that fixes it.

Mr. SQUIRES. If section 4 should pass as amended by you, do you think the power would then lie with the Legislature to change that location afterwards?

Mr. THURMAN. Well, I had thought not. I won't say positively that it might not be construed otherwise, but I do not see any use of confirming the location, if that does not mean that this Constitution fixes it there. If the word confirmed does not have that meaning, then what meaning can it have? But, gentlemen, speaking in my individual opinion, I do not care what form of language you use. I make my point that all future institutions—the deaf, the dumb, the blind, and everything that we have not now expended a large quantity of money to build up to a certain point, should be left to the Legislature, and for that reason—we have spent money for the university, let us have the university as it is by existing law, but if the Legislature wants

a branch or department somewhere else, leave it in their power to do it. It seems to me that is the common sense way.

Mr. VAN HORNE. Mr. Chairman, the only suggestion I have to make—if there is any question about the establishment of different branches of the university at other places, it might readily be obviated by an amendment to the proviso of section 5 and striking out the word "agricultural" and leaving it experiment stations.

Mr. VARIAN. Mr. Chairman, I quite agree with Mr. Thurman on the general proposition that it would neither be wise nor right to absolutely now locate all future institutions of learning that might be provided for by law, and I am inclined to think with him that section 4 accomplishes the purpose he suggests. I want to call attention to section 6 also in connection with this. That section is attempting to deal with the grants of land by Congress to these several institutions, and it assumes that all these institutions, as I understand it, are to be consolidated with the university. Is it not true that section 6 would have to be remodeled and reformed in accordance with that, if section 5 is to come out?

The CHAIRMAN. The chair will state that we passed section 6 pending the amendments to section 5.

Mr. VARIAN. Well, I think it ought to be read and considered in the matter now before the committee. I am not prepared to make it myself, on the first inspection of it. I prefer to have time to look at it.

Mr. KERR. Mr. Chairman, this brings up one of the most important subjects that comes before this Convention, and no doubt before it is finally acted upon by the committee will lead to a little discussion. It is already after 12 o'clock, and I therefore move you that we now take a recess until 2 o'clock.

The committee then took a recess until 2 o'clock.

AFTERNOON SESSION.

The committee met pursuant to adjournment and resumed the consideration of the article on education and school lands.

Mr. HART. Mr. Chairman, I am in favor of striking out section 5. I think that section 4 as it stands, or as it may be amended, is sufficient on the question of location. While I am willing to vote to insert Salt Lake City there in case the section shall stand, when it comes to the striking out of the section I shall vote to strike out the whole section.

Mr. KERR. Mr. Chairman, I trust that all these amendments will be voted down and those two sections may be stricken out. I favor striking out the section entirely.

The question being taken on the motion of Mr. Pierce, the committee divided, and by a vote of 21 ayes, noes not counted, the motion was rejected.

The CHAIRMAN. The question now recurs upon the motion of the gentleman from Utah County to strike out the entire section.

Mr. VARIAN. Mr. Chairman, it might be well to have an understanding as to just what the condition of the law is. It was suggested to me this noon and I brought down the statute in order that we might reach a conclusion as to striking this out. The university was established in 1850 and located at Salt Lake City. In 1892 the act was amended, not repealed, by changing the name. (Reads.) The school for deaf mutes was afterward established, as a department of the university, and the act provides that until separated therefrom it shall remain as a part of the university. In 1894, a school for the blind was established in connection with the institution for the deaf mutes, under the control of the same board. It seems that as the law now stands the school for the

blind and the school for the deaf mutes are together and form a department of the university of Utah. And with the university of Utah, they are located at Salt Lake City. The question is whether there is any necessity for section 5. That would depend upon the true interpretation of section 4. There seems to be some doubt and uncertainty in the minds of many as to what the true interpretation of the language of section 4 would be, that is, whether the words "the establishment" by existing laws are sufficiently comprehensive to include the location of the university. To meet that objection it is suggested by the gentleman who makes the motion to strike out that he would favor the insertion of more positive, definite language in connection with the words "the establishment." That being so, it would seem that if we entertain the view that Mr. Thurman does, that we ought not to provide definitely and permanently for all other institutions that may be provided for by law—that is, institutions of learning as to their permanent location at any one place, but that section has no useful purpose to subserve and ought to be stricken out. So far as I am concerned, as it appears to me now, at least, it seems to me that we could safely strike out that section.

Mr. CANNON. Mr. Chairman, I am in favor of striking it out.

The motion to strike out section 5 was agreed to.

Mr. CANNON. Mr. Chairman, I move that we strike out section 4. I believe it should be stricken out for the same reason that the other is stricken out.

Mr. HART. Mr. Chairman, that was the question that we argued the other day, and I think that by all means this Convention should settle now the question of location. If there is going to be a union, let there be a union by the vote taken the other day. Make the location by all means. I think we owe it to the people to settle this question. If you leave it to the Legislature, it will

be unsettled. It is just as well settled now as it can ever be by the Legislature, for even if the Legislature takes further action, it will always be subject to change by some other legislative assembly. I do not think that this section should be stricken out. We considered this question very fully the other day and determined upon leaving it there. I think that this Convention owes it to these institutions and to the people to settle for them those questions.

Mr. ROBERTS. Mr. Chairman, the section, I think, under the ruling of the chair, is still open for amendment notwithstanding the motion to strike out.

The CHAIRMAN. I think so.

Mr. ROBERTS. Then I would amend the section by inserting the words "after the" in the first line, the first word, and insert "location and," and at the end of section 4, I would add the word "respectively."

Mr. BOWDLE. I want to ask Mr. Varian a question. I have not had the opportunity to look into the location of the agricultural college. Is there any statute upon the location of the agricultural college or any United States statute fixing it?

Mr. VARIAN. It was located, Mr. Chairman, in 1888. That may have been amended. It has been recognized as being at Logan in the several appropriations that have been made.

Mr. BOWDLE. Under your amendment, Mr. Roberts, as you have it, do you think if it is adopted the college should be changed from its present location up to the place that has been ceded by the United States government?

Mr. ROBERTS. Do you mean the college or the university?

Mr. BOWDLE. The university, I mean.

Mr. ROBERTS. I think, sir, that it could be transferred.

Mr. BOWDLE. Mr. Chairman, it is a question I had not looked into.

Mr. ROBERTS. I cannot say that I

have looked into the question either, Mr. Bowdle, and therefore, I have no special information about it.

Mr. FARR. Mr. Chairman, I do not think there is hardly a dissenting voice at the present time in regard to the location of the university being at Salt Lake City, whether it be on University square or up where the government has appropriated for it. I should be in favor of having it so that it can be moved up there and everything pertaining to it, where the government has appropriated the land. I think that is the most suitable place for the extensive improvements of that university. As I understand, there is nothing in the laws to prevent putting it on the ground. I think that is pretty well fixed, and I think it is pretty well fixed in the minds of the most of the members of this Convention that the agricultural college shall be in Logan. Well, now, I hate very much to repeal that section and in twenty years from now, or ten years from now, have the people up at Logan or the northern part of Utah get up a great furore and hue and cry that the university should be at Logan, and detain the legislative body some eight or ten days or three or four weeks quarreling over that. I should like to fix that, if we could, so that could not be changed without calling a general convention of the whole Territory, consequently, I am in favor of fixing on it to-day, with that section with Mr. Roberts' amendment in the first line just as it is—that we fix that matter and settle it for once. We said the other day that the university should stay here and the college at Logan, and I do not see why we should change our minds.

Mr. MAESER. Mr. Chairman, I am opposed to the amendment of the gentleman from Davis County. If it should prevail it would ignore all the proofs and statements we have listened to by which we have been convinced to that extent at least that the university can-

not exist in the way it stands now, and something would have to be done—and also the agricultural college. We have to take into consideration that we are entering into a statehood now which will increase our taxes considerably without any particular additional incidental appropriations, but the first thing that would have to be done on the part of the regency of the university would be to apply to the first Legislature for a considerable additional appropriation to keep the university alive or to enable it to continue the fine work that is now being carried on under the present management, and I cannot conscientiously support any motion that tends to perpetuate the existing condition of affairs. I am decidedly in favor that the section be stricken out.

Mr. CANNON. Mr. Chairman, I voted the other day for the insertion of "agricultural college" as it was inserted in this section. At that time I did not think for a moment that it meant that the establishment would be interpreted to mean also the location. I am opposed to the establishment and location as at present, of the two institutions, as I stated on Saturday. I believe the only thing for Utah to do is to unite her higher educational institutions. It is for this reason that I made the motion to strike this out. I do not desire to take up the time, because I do not think we should go over the same ground. The vote the other day was taken when a great many were absent. I do not think it is by any means conclusive, but I certainly am opposed to the amendment of the gentleman from Davis County, and am in favor of striking out the section.

Mr. ROBERTS. I would like to ask Mr. Cannon a question, and that is, in the event of striking out section 4, what would be the status then of our educational institutions?

Mr. CANNON. As I understand it, the status would not be changed. In the article on schedule or the ordinance

can be included some provisions for the existence of the institutions and the confirmation of their existing rights. I think that is the proper place for it. That is my opinion, after consulting with some of the lawyers present.

Mr. ROBERTS. Mr. Chairman, I, too, wish to avoid going over the ground that we have already traversed in this discussion in regard to the propriety of uniting these two institutions. I think, however, that it must be clear to gentlemen of the committee that the insertion of the words "agricultural college" in the two places at which they were inserted in this section certainly contemplated the separate existence of these institutions. I will say, since they were added to the section upon my motion, that that was clearly the intent and purpose of them, with the additional fact in view, and that was to add in section 5 a provision that the agricultural college should be located at Logan. Subsequently, however, the gentleman from Utah County, who sits near me, suggested that in all probability it would be a better thing to do to insert the words that I now offer as an amendment.

I, too, believe that if we should strike out section 4, the whole question would be left to the Legislature, and in the interests of our educational institutions and in order to remove the hand of demoralization that is laid upon these two institutions by leaving them subject to change and transfer and alteration by each succeeding Legislature, I, for one, favor the settlement of the question now. If it could be possible, I would be in favor of a provision and an amendment that would take and establish the university of this new State at Logan. But I have looked upon that as utterly impractical. I do not believe that it is possible to remove the university to Logan. I believe that if the question was once settled as to the union of the university and of the agricultural college, separate and apart

from any consideration of where you would leave it, the simple decision of union would carry with it union at Salt Lake City. There is no question about it. That is just exactly what it would mean, and it was for that reason that I endeavored to avoid risking everything upon the question of union alone, and wanted the question of location to come up in connection with that, because I think of right it should come up with it since it involves in any event the sacrifice of no inconsiderable sum, and to postpone settlement of this question now means that our educational institutions for years or for some time to come at least will be in an unsettled condition and work very great injury to these institutions. Therefore I again urge that we settle this question and that we settle it in the consideration of section 4, now that is before the Convention. I again repeat that there is nothing so injurious to our educational institutions as to leave them in a condition where their existence is all the time unsettled. We have suffered from it in the past; we shall suffer from it in the future if we continue this policy, and now is our opportunity. I again say that if it involves no great sacrifice of property, it would not be a very serious question in my mind—the union of these institutions. I think then, perhaps, it would be the proper thing to do, and yet I cannot get away from the fact that the union of the agricultural college with the university at the best is but an experiment, and in the majority of cases, as authorities cited upon the floor the other day show, the preponderance of evidence at least seems to be in favor of running these institutions separately. Now, Mr. Chairman, I sincerely hope this section will not be stricken out and I hope that we will settle this vexed question now. Union if possible at Logan, but since I believe that to be impracticable, then let us declare where these two institutions shall be located.

Mr. SMITH. Mr. Chairman and gentlemen, to me this is an exceedingly grave question, and one to which should be given the most deliberate concern. One of the gentlemen on the floor remarked that the argument made by Mr. Kerr had convinced him that the institutions should be separate. Before the argument of Mr. Kerr, I was convinced that the places should be separate. After his argument, I became converted, and voted accordingly on my conviction, that these establishments, wherever they might be located, should be made one, and I trust that this Convention, in consideration of this question, will consider it not as to a question of location, whether in Salt Lake County, whether in Utah County, or Sanpete County, or Cache County, but that it shall receive the gravest consideration as to the wisdom and prudence of the union of this system. There are many reasons, it is true, that could be offered in one way and another as bearing upon it, but to my mind the great question before us, in the consideration of this matter, and the adoption of the course we shall pursue, is the economic one. We have started out upon the basis of being exceedingly economical, and we have sought to work to that end. In fact, the result of the desire for economy has awakened some ridicule in the breasts of some of the members present, probably as well as gentlemen outside of this Convention, but when it comes to this proposition, it is one of extreme moment. There are none of us, I presume, but what desire that there may be established a thorough and complete university so far as it is possible, in which or to which we may send our children to receive their education. Of course we recognize that all of us have our prejudices as to the question more or less of location, but it seems to me in regard to the character of public institutions that are to be decided upon, the first proposition with us should be what

are we going to have, how we are going to place them, and how they will reach the needs of the people, and the interests as an entirety, and how far they will subserve the best interests of the entire people and at what points they should be properly and reasonably placed. After we have determined in regard to this matter, I believe that a full and candid discussion of the wisdom of where these various institutions should be placed should come before this Convention as a separate proposition, and that none of us should seek to be hauling and pulling this in this direction or that in that direction, a portion or a parcel. The question, in my judgment, should be one of patriotism, so far as the institutions are concerned, and wherein they will best subserve the people of the proposed new State and in the most economical manner.

Therefore, in consideration of this matter, so far as I am concerned, I have my views. They are fixed in regard to this matter. I have conversed with many gentlemen, so far as that is concerned, in regard to it, and I know that very many of them are fixed in their views and their views are not in harmony with my own, but I believe that the argument made here yesterday upon this proposition by Mr. Kerr is simply unanswerable, that his study of that question has put it in my mind beyond the question of a doubt, and while I might desire to subserve through my selfishness some personal interest in connection with this matter, the question with me is and upon which I want to vote, that these institutions shall be one institution, and that if this body of men shall say that they will have these various institutions and how they shall be builded up when they conclude as to where they shall go, so far as I am concerned, I will sustain them in carrying out their proposition to the best of my ability, but until this is the case, I think the discussion as to where or how they shall be disposed of in my

mind is simply unwise and accomplishes nothing. Let us determine whether we will or will not. Having determined whether we will or will not, then let us determine where they shall go, or where they shall not go.

Mr. MAESER. That is right.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer the following at the end of section 4, "and shall be located at the city of Logan," to be considered if Mr. Roberts' motion should not carry.

Mr. VARIAN. Mr. Chairman, that is an amendment to the section, not an amendment to the amendment.

The CHAIRMAN. The chair thinks it would be well to dispose of the other amendment first.

Mr. EVANS (Weber). I give notice now that when that is disposed of, I shall move the amendment which I suggested.

Mr. ANDERSON. Mr. Chairman, I am opposed to the motion to strike out and will support Mr. Roberts' amendment to locate these institutions as they now exist. I think that the best interests of the new State will be subserved by their remaining separate. I think that the government, when it passed laws establishing these colleges, intended that they should be separate from the university. It is not necessary to go over the arguments again, but I am opposed to the motion of striking out and will support Roberts' amendment.

The amendment of Mr. Roberts was agreed to.

The CHAIRMAN. The question is now on the motion to strike out.

Mr. VARIAN. Mr. Chairman, I trust that that motion will not prevail. We have now reached a point in this possible disagreement from which we can see that it will settle this question so far as this Convention is concerned. Let us vote that motion down and let the matter stand as indicated by this last vote.

The motion to strike out was rejected.

Mr. EVANS (Weber). Mr. Chairman, I now move to strike out section 2.

No second.

Mr. VARIAN. Mr. Chairman, I move to strike out, in line 6 of section 6, the words "as specified in section 5 of this article."

The amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, I move that when the committee arise, they report the article to be placed on the calendar for third reading.

Mr. SMITH. Mr. Chairman, I think that we ought to consider this last section in connection with that section in the bill of rights. It seems to me that section 4 of the bill of rights covers the same ground nearly, if not in the same language, that is covered in the last section of the present article. Judge Goodwin moved this morning to strike out the last section of this article on the ground that there was something in the bill of rights. If my memory serves me correctly, it is section 4.

Mr. EVANS (Utah). It was decided here that the bill of rights did not cover that point.

Mr. SMITH. I think it does amply.

Mr. GOODWIN. Mr. Chairman, a proposition backed by some very accomplished scholars was sent into the committee, asking that the metric system be established in Utah Territory. The committee ignored the matter, thinking it was not a good place or the Territory was not yet prepared for it. At the same time, Mr. Chairman, that is the rule of the government of the United States. The same thing is established and being worked under in the construction of the Nicaragua canal. Importing merchants every day find they have to calculate in both systems. I wish to move that another section be added to this article which shall simply read "the metric system shall be taught in the public schools of this State."

Mr. VARIAN. Will the gentleman withhold that a moment, until I offer an additional amendment to section 6?

Mr. GOODWIN. Yes.

Mr. VARIAN. Will the committee be good enough to look at lines 7 and 8 again, in section 6? It seems to me that the article "a," in line 8, and the word "university," in the same line, should be stricken out and the word "fund" made plural, so that that would meet all the questions presented by the land grant. Now, I suggest that the words in lines 5 and 6, "and the university and the departments thereof," be stricken out so that the act of Congress referred to will embrace all those land grants.

The amendment was agreed to.

Mr. VARIAN. In line 12 it now reads, "maintenance of the different departments or colleges respectively of said university." That should be changed. I think that "departments" should be changed to "schools." That would take in the deaf and dumb and the school for the blind, mentioned in the act of Congress; and that "of said university" be stricken out or put in "institutions." I move these amendments be made.

The amendments were agreed to.

Mr. GOODWIN. Mr. Chairman, I was informed by gentlemen most interested in urging this metric system that the committee had decided to ignore the matter altogether. The chairman of the committee tells me they purpose to report on that, and hence, with the permission of the committee, I will withdraw that amendment until that report is made.

Mr. HYDE. Mr. Chairman, that matter having been brought up, as chairman of that committee I will state that the committee have had that matter under consideration, and have given it very careful consideration, and they expect to make a report. I do not know how they got the impression they would not make a report. There

is nothing of the kind in the minds of the committee.

The motion of Mr. Evans of Utah was agreed to.

The committee then proceeded to the consideration of the article entitled judiciary.

Sections 1 and 2 were read.

Mr. EICHNOR. Mr. Chairman, I move as an amendment to section 2 to strike out all after the word "years," in line 14, and insert in lieu thereof the following, "at the first election for said judges, one chief justice shall be elected for six years, one associate judge for four years, and the other associate judge for two years. The terms of office of said judges and which one shall be chief justice shall at the first and all subsequent elections be designated by ballot." Whether this amendment is adopted by the committee or not, I think that as a member of this Constitutional Convention it is my duty to bring this question up. Now, I believe when we elect supreme judges the first time, that it be designated by ballot who shall be the chief justice. You are not trusting to luck by the uncertainty of lot. You know exactly for whom you vote. You know whom you will elect as chief justice or at least you have the privilege of voting for the man whom you want as chief justice, and the associate justices will be elected according to the amendment for four years, and the other for two years, and after that, they will be elected at different times, but all be elected for six years. But I do not believe that it is a modern sentiment to have judges drawn out of a hat by lot, and whoever happens to get the lucky number shall be the chief justice. I believe that the people of the Territory of Utah are intelligent enough to say, "We want such and such a man for our chief justice." There is no more salary, I presume, connected with the chief justice than the associate judges. It is a position of honor and it is the most responsible position. I believe in

getting right down to the people, as I advocated a number of measures on this floor, I have always said I was not afraid of the people, and I believe in trusting this measure to the people. We may get a better chief justice. The chances would very likely be that the poorest of the three would be the chief justice; possibly the youngest man would be the chief justice. Now, I think that should not be the case. I believe the people should nominate their man, and put forward the most experienced man for chief justice. The democrats should do the same, and the republicans should do the same.

Mr. PIERCE. How about the populists?

Mr. EICHNOR. Well, the populists then should, and certainly all parties should. Gentlemen of the committee, I hope it will receive your earnest consideration. I do not want to take up your time, but I believe this is a matter that comes right home, in which we will have a right to name our choice for chief justice and not trust it to the luck of a few numbers in the hat or by whichever method lots are drawn.

Mr. ELDRIDGE. If everything runs regularly in the course of their proceedings, will they not all three be chief justices?

Mr. EICHNOR. No; I do not think so.

Mr. GOODWIN. Mr. Chairman, I have two or three times noticed in this committee, something in the course of argument which seemed to express a great sympathy for the people, but where Mr. Eichnor can find that his plan gets down closer to the people than this one, I do not understand. He says the richest lawyer and youngest man might be elected chief justice under this lottery.

Mr. EICHNOR. Beg pardon. I do not mean elected, I mean get it by lot.

Mr. GOODWIN. I want to say if that be true according to this, he would be out of office in three years, whereas, if it went on his way the man would serve

at least five years before he got a chance to be chief justice. The truth is the gentleman argued so long on the deaf and dumb asylum, he is getting a little deaf himself.

Mr. EICHNOR. I did not argue that question.

Mr. EVANS (Weber). Mr. Chairman, for fear that this amendment might go, I want to just say a word about it, as I am on the committee. I think probably it is not quite understood. Taking the position of chief justice, and it has no more responsibility than that of associate justice—not a bit. He has no other duties to perform, except to preside on the bench. Now, if we nominate three men for the justices of the supreme court, and each of them will probably be the very best man that can be found in either of the parties, if you are to nominate one for the short term and one for the next longest term and one for the long term, the chances are you would get the short term man in some lawyer who amounted to but very little, but if we should engage them all at once, each one of those three judges will, of course, expect to be chief justice, and the chances are that we will get three good men. Another thing, it is right anyway to have this honor conferred by lot. Under the system as proposed each one of these judges at one time or another will be chief justice. The short time man is chief justice. When he goes out and another one comes in, he is a long term man, and the next shortest term man is chief justice, and so on. I think that is fair the way it stands and hope the committee's report will stand.

The amendment of Mr. Eichnor was rejected.

Section 3 was read.

Mr. PETERS. Mr. Chairman, I just merely would like to ask the chairman—I have read this article very carefully. I do not find anything that says that these judges shall be citizens of the United States. Now, I have an amendment to offer here:

Every judge of the supreme court shall be at least thirty years of age and shall, before his election, be a member of the bar, learned in the law, and a resident of the State or Territory of Utah for five years next preceding his election, a citizen of the United States and State of Utah.

Mr. EVANS (Weber). I call the gentleman's attention to the fact that I think in the article on elections, no person is qualified to hold office unless he be a citizen of the United States.

Section 4 was read.

Mr. EICHNOR. I would like to ask the chairman of the committee a question. Was it ever discussed by the committee that the words be added, "the supreme court shall have original jurisdiction to issue the common writs of mandamus?" etc.

Mr. GOODWIN. No, that was understood.

Section 5 was read.

Mr. LOW (Cache). Mr. Chairman, I move to strike out, in line 8, section 5, the word "thirty," and insert in lieu thereof, "twenty-five."

Mr. HART. Mr. Chairman, that would conform more nearly to the other part of our Constitution, in which we fixed the age of State senators and also the attorney general. I think the age of the attorney general is fixed at only twenty-five years.

The amendment was rejected.

Mr. ALLEN. Mr. Chairman, I wish to amend section 5, in line 10, by inserting after the word "years" the following, "of the district one year."

Mr. THURMAN. I would like to ask a question, if there are not some judicial districts as described here that perhaps have not a lawyer in them competent for a judge?

Mr. ALLEN. My idea was to give our young men who are studying law in the different districts a chance to hold these positions, so that the others will not come in and hold them.

Mr. THURMAN. You do not answer my question.

Mr. ALLEN. Whether there is or not, I do not know.

Mr. EVANS (Utah). Mr. Chairman, I think that this ought not to prevail for the reason that every district, if they have a man in that district that is competent, there is no question about anybody else coming in and getting elected in that district. But if it should be found that there is not a man competent in that district, why then they should have the opportunity of going outside. I think it ought not to prevail.

The amendment was rejected.

Mr. EICHNOR. Mr. Chairman, I move to strike out all after the word "so," in line 15. Nowadays there are honest lawyers and dishonest lawyers, and if ever two dishonest lawyers get together, they can get another dishonest lawyer to be judge pro tempore and sell their clients out. [Laughter.] I do not assume all the virtues in the profession of law.

Mr. GOODWIN. Mr. Chairman, I insist that Mr. Eichnor shall not give away the secrets of his profession.

Mr. HILL. May I ask you a question? I would like to have you point out a dishonest lawyer.

Mr. EICHNOR. There are none in this Convention.

Mr. CREER. Present company is always excepted.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, this motion of Mr. Eichnor's, which would strike the matter referred to out, ought not to prevail, in my opinion. I want to just give you a brief reason why. Under a State it is the design, or ought to be the design at least, of the Convention to have as few judges as possible to transact the business of the Territory. Now, as the article stands, the district judges have jurisdiction in probate matters, and if it should be determined that the probate matters were getting a little behind, I think that the attorneys could get together and agree

on some lawyer to sit and transact that business. It is principally routine business anyway, and on the other hand, if the business of the district should get behind, the judge should be extremely busy, there are many honest lawyers who would be willing to sit for attorneys and help them dispose of their business. I take no stock whatever in the question of dishonest lawyers rendering dishonest decisions. I know that lawyers are sometimes mistaken and so are judges, but the rule is honesty rather than dishonesty.

Mr. SQUIRES. How would the compensation for the judge who acted pro tempore be arranged?

Mr. EVANS (Weber). There is absolutely no provision for it. The State would not have to pay out a dollar.

Mr. SQUIRES. The judge would sit just for luck?

Mr. EVANS (Weber). Yes, sir; many of them would be willing to do it. The gentleman has suggested on my left that lawyers frequently defend men charged with crime without receiving compensation. They are more patriotic perhaps than those to which the gentleman belongs that asked the question.

The amendment was rejected.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment, and I would not do it, coming from the committee, were it not for the fact that I suggested it in committee, and that is, by striking out the word four, in line 7, and inserting in lieu thereof the word two. I will say, gentlemen, the only purpose of this is that we must bear in mind that this is a constitutional provision. There may be many counties where four terms a year would not be necessary. This would make it obligatory to hold four terms a year whether any business was transacted there or not, and you must remember that the language is "at least four terms a year." My amendment would make it read, "at least two terms a

year," and then the Legislature might provide more terms if necessary. But I fear that if this prevails, as it is written in the article, the judges will have many trips to make and many terms to hold when there will be no business to attend to.

Mr. SMITH. May I ask the gentleman a question? If probate business is given into the hands of these judges, won't they, in order to meet the necessities of the case, have to hold four terms anyhow?

Mr. EVANS (Weber). The probate business, however, is not transacted by terms. That is transacted at any time at chambers. The judge can simply go into the district at any moment or at any time, and I think he ought to go into the counties oftener than four times a year for the purpose of transacting that business, but this has no reference whatever to probate business, as I understand it.

Mr. CHIDESTER. Mr. Chairman, I would object to the amendment, for the reason that I believe that four terms should be held in each county every year. I know that in my own county, if it was left optional with the judge, we would only have two terms a year and the criminal business would have to be carried over from month to month, and for that reason we have got a bankrupt county already, holding prisoners waiting for trial, and I think that the terms should be held every three months at least.

Mr. FARR. Mr. Chairman, I see no provision in this statute for probate judges, and as I have been raised and always lived in a country where they have always had probate judges, and it is rather an innovation not to have them, I thought I would inquire why it is they do not have any probate judges? I want to find out.

The CHAIRMAN. The purpose of the article is that the district judge shall do probate business.

Mr. FARR. That will do away with it.

I wanted to know if each member of this committee thoroughly understood it. Some of our counties are very large and the county seat is at a distance and it does seem to me as though the county should be provided with a judge for doing probate business, instead of compelling them to wait for the regular term of court. That is a question I would like to have considered.

Mr. BOWDLE. Mr. Chairman, I wish to offer an amendment beginning with line 6, simply inserting the words "until otherwise provided by law." Then I am ready to support the amendment offered by the gentleman from Weber. That will leave it in the hands of the Legislature and they can determine the matter.

Mr. EVANS (Weber). I will accept Mr. Bowdle's amendment to my amendment and make it one.

Mr. CREER. I would like to ask if that provision would not affect all the balance of the section?

Mr. BOWDLE. I do not think so. I only think that it modifies that one question.

Mr. CREER. It might be construed to modify the entire balance of the section.

Mr. BOWDLE. I do not think that construction could be given to it.

Mr. EICHNOR. Mr. Chairman, this time I am with the committee that reported this article. I thought I would make that declaration so that there would be no misunderstanding about my position. I think if the probate judges are abolished as provided in this article, that the judges should appear four times a year in the county. A great many matters need attention; no matter how small the county is in population, there are always some matters coming up that should have attention. If there was some one that could transact the probate business when the judge is not present, why, then the objection might be good, but under the circumstances I submit it is not.

Mr. HEYBOURNE. Mr. Chairman, I object to the amendment that has been offered by the gentleman from Weber. I have understood that the design of this article was that we might facilitate the business of the outlying counties, and that in doing away with the probate courts, as it is anticipated, so I understood, it would give us a better opportunity to attend to the probate procedure without its accumulating. And we have endeavored of late years to work up this business, and if the gentleman's amendment should succeed, we are of the opinion that it would be of a very great disadvantage, and as the gentleman from Garfield has stated, cases of importance would be transferred from term to term or month to month, and the result would be that a great many of our counties would become bankrupt. Therefore, I should certainly insist on the article that is presented that the district court be held at least four times a year, and should the judge be overworked the Legislature may have the opportunity of course of making provisions for extra judges.

Mr. BOWDLE. Mr. Chairman, all I wanted to say was simply this, that it will be but a short time after the adoption of this Constitution until the Legislature will convene and they will have the opportunity to look into this matter and see whether four terms are needed in any of the counties. It may be there will be some counties where it is not necessary, and it leaves it in the hands of a power that can adjust it. I believe in leaving things so that they can be adjusted. It may be made just in that section, but I am opposed to making it ironclad.

Mr. GOODWIN. Mr. Chairman, this matter was discussed a great deal in the committee and the result has been that this section was made as a majority of the committee thought that the people of the Territory want it. It does away with all probate

judges, and we find in consultation with members of the Convention that while they approved of having an arrangement which would secure to them by giving the man a better salary a higher order of judge, there still was great fear that the outside counties would be neglected, and so this was put in "at least four times a year," to make it clear to the gentlemen of the Convention, as well as to the people outside, that the judge who lived in the district should be in each county three or four times a year at least. I am not particular about the amendment, if the Convention think best, only I would suggest to my friend from Weber that if he insists on his amendment he change the order of it a little to make it read instead of until otherwise provided by the Legislature, that the terms shall be "at least two terms a year, but the Legislature may change this provision." That would make it apply simply to that one paragraph. I do not care anything about it.

Mr. EVANS (Weber). If it is put in the paragraph just before the word there, in line 6, it would be all right.

Mr. GOODWIN. If I were you, I would make it at least twice a year.

Mr. EVANS (Weber). I care nothing about that; that would be perfectly satisfactory.

Mr. THURMAN. Mr. Chairman, I trust this article will stand just as it is prepared. We have got some counties in the Territory where the judge will go two hundred miles to hold court. Now, I do believe any judge is going to take those trips just for fun or amusement, or just because he may not have anything else to do. If he takes them at all, he is going to take them because he has to, because it is fixed unalterably in the law, and I think that the judge ought to appear four times in each county. The only way to arrange for that is to fix four terms. Abolishing the probate judges in the counties, as we propose to by this article, it is as

little as we can provide in place of them to compel the district court to go into those counties four times a year to hold court and transact the business that is to be done there. If we do not provide for it here, it won't be done, and in any event, if I was going to favor any change it would be that, "until otherwise provided by law," there should be four terms held in each county. That amendment I would not object to, because I do not believe the Legislature would ever change that until they found out beyond a doubt that two or three terms would be sufficient.

Mr. JOLLEY. Mr. Chairman, while I am not a lawyer, I would like to say a word on this subject. It is true that district judges would have many miles to travel to reach some of the counties, but is it not true also that some of these outlying counties have jails for prisoners, that prisoners will be kept in for a double length of time—that is slow poison—that they could not hardly stand, and I consider that we ought to take into consideration even those things. A man if he has done wrong or a person to be locked up for five or six months awaiting the next term of the court to come around—in some of the jails, and prisons, that they have in the outside counties, I think that the judge better be made to travel once a month than to have such hardships placed upon those that are compelled to be confined in the jails.

Mr. BUTTON. I wish you would separate that motion. One part I want to vote for, the other part I do not.

Mr. HAMMOND. Mr. Chairman, I am in favor of the section remaining as it has come to us from the committee. When I first read it over, I was not in favor of those four terms a year; as sprung from our judge—Dave Evans—he knows pretty nearly everything, but I referred the matter to my republican friend on my right and he suggested a way out of the trouble that satisfied me. I was looking to this expense, and

he suggested that the provision in this article makes it the duty, or it is the county clerk that is to be clerk of the district court. Now, nearly all our clerks even in those remote counties can write—nearly every one of them, and they can correspond with the judge and tell him when they want him to come down.

Mr. EVANS (Weber). I do not believe, gentlemen, that you understand the fact that in Utah when we have statehood, our judges will be different from those who have been sent here from Washington. Under that old system they were very arbitrary, and if it were left with them, they would not hold their terms as often as they otherwise would have done. But under the system of statehood, we must remember that in these outlying counties the judge will be elected for these counties and he must do that which he believes for the best interests of the people who elected him. It is not supposable that he will be arbitrary, that he will neglect one county or another. He is compelled under this article to reside in the district where he is elected, although he may not be a resident of that district when elected. The only objection I have to it is that it has arbitrarily fixed in the Constitution four terms a year when it may not be necessary. Of course, so far as our more thickly settled portions of the Territory are concerned, it is immaterial to us. I think you will find in the end it will work a hardship in some instances. There are as many as five or six counties in some of these districts. In other words, there are four terms a year held, there are six counties, there would be twenty-four terms in one year. The judge would be pretty much occupied all his time in opening and closing terms, and getting from one county to another. We would scarcely have time enough to transact business.

Mr. MALONEY. Mr. Chairman, I

want the committee to get this article right from this on. There should be at least four terms held a year. All this probate business is to be transacted by those district judges. In other words, in addition to the district court business now done by the four judges, the nine judges must do all of that, and the business of the twenty-seven probate judges. Well, now, if you limit it so that the district judge is not required to go but twice a year into these outlying counties, it seems to me that a good deal of this probate business will be neglected. The idea of the judiciary committee, as I understand it, was that there should be a probate court held at least once a month in each county of the Territory. Now, if a man happens to die, I do not want it to be six months before there can be an administration or the granting of letters testamentary. I want the judges to go there and transact business that is ready to be transacted. I want justice brought home to the doors of the people of this Territory. So I think that the committee has reported properly—at least four times a year. I think it is as little as a judge can do to go there and transact business. If there is no district court business, there will be some probate business. I insist that the people demand at least four terms a year in each county. Now, take San Juan County. While the population is not very great at the time the census was taken in 1890, we learned from the distinguished delegate from there, there are now about two thousand people down there exclusive of Indians. I say there ought to be court four times a year in that county.

Mr. EVANS (Weber). Mr. Chairman, suppose now, some future Legislature would establish probate courts. We have left it open so that it can do it, and we would have fewer district courts. Under this constitutional provision, these judges would be required

to hold district court in this State four times a year.

Mr. MALONEY. That is just the way I want it done, and if there is absolutely no business to be done at the district court, let the clerk adjourn the court without the judge going there.

Mr. ROBERTS. Mr. Chairman, I would ask that the amendments be put separately, for, while I would like to vote for the phrase, "until otherwise provided by law," in order that this question might be left to the action of the Legislature, I am not prepared to vote for cutting down these district courts to two terms a year.

Mr. BUYS. Mr. Chairman, I did not expect to say anything on this subject, but I would be opposed to both motions, whether they were put separately or jointly, because I do not believe we should put it in the power of the Legislature to make less than four terms a year in each county. There is certainly some business that will be necessarily transacted or should be transacted in each county at least four times a year, and if any county in the Territory or in the State should be neglected and four terms not held in that county, I think it would work a hardship on that county. Take it from a financial standpoint and I think that it would be a great deal cheaper to hold at least four terms in each year in a county than otherwise, because, if a crime is committed, we will say just after the close of a term, to keep a prisoner or perhaps four or five of them for six months would work a hardship on the county. They have to pay the expense of keeping those prisoners and I certainly am not in favor of putting it within the power of the Legislature to make less than four terms a year in each county.

Mr. VAN HORNE. Mr. Chairman, I am opposed to both of those amendments. I do not think we ought to put it in the power of the Legislature to make less than four terms a year in each

county, and I would certainly be opposed to fixing it at the low number of two terms in each county and leaving it to be further disposed of by the Legislature. I think the objection that is raised that there might not be business at any given term is one that would be wholly outside of any danger. If there were no business, the court and judge could easily send his order to the clerk to adjourn the term and he would not have to go to that county. If there was business even if it was only one litigant, I think that the proper administration of justice would require that he should go and attend to whatever business there was in the county. I hope that neither amendment will prevail.

The amendment of Mr. Evans was rejected.

The amendment of Mr. Bowdle was rejected.

Mr. VARIAN. Mr. Chairman, I have an amendment to offer right at that place; before line 7, insert the words, "at the county seat thereof." It seems to me that is an omission. It is not intended that the court should be on wheels.

The amendment was agreed to.

Section 6 and 7 were read.

Mr. VARIAN. Mr. Chairman, I wish to offer an amendment to line 6 of section 7, to strike out the word "they" and insert the words, "district courts and the judges thereof." There seems to me an omission in that particular. Of course it was not designed to limit the issuing of these writs to a time when the court was in session.

The amendment was agreed to.

Mr. VARIAN. I would ask the indulgence of the committee to insert the same amendment in section 4 as to judges of the supreme court. It is desirable that they have the power outside of term time. I ask to make this amendment, "each of the justices shall have power to issue writs of habeas corpus to any part of the State upon

petition by or on the part of anybody held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court or judge in the State." I have taken this language from one of our Constitutions.

That is to be inserted after "habeas corpus," in line 3 of section 4.

Mr. EVANS (Weber). I want to ask Mr. Varian a question. Don't you think that this section gives the same power that your amendment gives?

Mr. VARIAN. No; the writ of habeas corpus, Mr. Chairman, is not necessarily in the exercise of appellate jurisdiction at all.

Mr. EVANS (Weber). I want to ask you if, as a matter of law, a court has not power to issue any writ that is necessary and proper to exercise the jurisdiction which it has?

Mr. VARIAN. Certainly, but that has nothing to do with this amendment. This amendment is conferring the power upon judges only to issue writs of habeas corpus, which seems to be confined to the court sitting as a court.

Mr. EVANS (Weber). That is just the point. Has not the court the right, having that jurisdiction and that power—has not any judge of the court the right to issue these writs?

Mr. VARIAN. I think not.

The amendment of Mr. Varian was agreed to.

Mr. GOODWIN. Mr. Chairman, the gentleman's first amendment, section 7, "district court and the judges thereof," it seems to me it would be more euphonious to say, "the district courts and any judge thereof."

Mr. VARIAN. I guess it would.

The CHAIRMAN. If there is no objection that change will be made.

Mr. CRANE. Mr. Chairman, I wish to make an amendment to this section. I wish to strike out, in section 7, line 2, the word "matters," and the word "and" after the word "civil," and insert between the word "criminal" and the

word "not," the words "and probate matters."

Mr. THURMAN. Mr. Chairman, I do not see what is the object of that; the words "civil and criminal not excepted in this Constitution and not prohibited by law," will cover everything relating to probate matters, as well as anything else. The object of this section is to give to the district court jurisdiction over every case that is not given to the supreme court and is not given exclusively to justices of the peace. It means that, and it says that. It does not say "cases," but all matters, and probate matters are civil matters; they are not criminal. They belong to chancery jurisdiction. We discussed that matter in the committee.

Mr. CRANE. I would like to ask the gentleman from Utah County what it means, "and not prohibited by law?"

Mr. THURMAN. "Not prohibited by law" simply means anything that is not prohibited to this jurisdiction, which this court has.

Mr. CRANE. I was brought to that thought, Mr. Thurman, by reading in section 1, "and such other courts inferior to the supreme court." It seems to me that you are giving the Legislature power to institute any other courts they may see proper in the years to come. You are laying the foundation here of the judicial power of the State and what the judiciary shall consist of, etc., and then you give the Legislature power to institute other courts inferior to the supreme court, is that the idea?

Mr. THURMAN. Yes; the object is to give the Legislature power to institute courts inferior to the supreme court.

Mr. CRANE. Any other courts they may choose?

Mr. THURMAN. Yes; we have limited the power, if you will notice, of a justice of the peace. I do not call to mind the section that it is now, but I would like to read that in answer to your question. It is in section 8. Now, the intention was to restrict the jurisdiction of the justices

of the peace, or rather not to allow an increase of that jurisdiction, that they never should have probate jurisdiction or anything else above what they have got to-day under the laws of the Territory. The Legislature might cut it down, but they could not increase it. Now, suppose the Legislature should want to create probate courts hereafter and confer upon them the power to transact probate business, then section 1 would mean that the judicial power of the State shall be vested in the senate, etc. (Reads).

Mr. CRANE. It seems to me, Mr. Chairman, that the idea of this article and all the articles in this Constitution would be to curtail the power of the Legislature. It seems to me in this article you are just giving the Legislature all the power that they ever had regardless of a Constitution, by giving them the right to institute any new courts that they might see proper in years to come. The idea of my amendment was that it should emphasize the fact that the district court had the power—

Mr. THURMAN. Do I understand now that this a question or a speech?

Mr. CRANE. No; it is a question in reply to yours; or rather an answer.

Mr. THURMAN. Oh, it is an answer.

Mr. CRANE. My idea in this amendment was to curtail the power of the Legislature. That is the idea, I suppose, of this article, and to emphasize the fact that they had powers in probate matters.

Mr. THURMAN. Would you withhold the power from the Legislature to establish in the years to come, if they desire, a probate court in each county?

Mr. CRANE. Yes; I think I would.

Mr. THURMAN. Well, the committee did not—

Mr. CRANE. If you have as many judges as this article calls for, you would never need any probate judges.

Mr. THURMAN. The committee differed with you and thought it better to give the Legislature power in that mat-

ter in the future to establish inferior courts.

The amendment of Mr. Crane was rejected.

Section 8 was read.

Mr. EICHNOR. I desire to ask the chairman of the judiciary committee a question. Are the justices of the peace to be elected at large in the county or to be elected in the several precincts?

Mr. GOODWIN. Just as the Legislature may provide. It is given in the hands of the Legislature.

Section 9 was read.

Mr. VARIAN. Mr. Chairman, in line 3, the right of appeal seems to be limited to questions of law alone. I do not know why that restriction is sought to be placed in the Constitution. It might be very appropriate in criminal cases, but as broadly as that is stated, it seems to me there might be some question as to how it would be interpreted in equity cases. In equity cases the whole substance and gist of the matter on appeal and everywhere else is the fact. The evidence goes up. The determination in an equity cause is not made on isolated propositions of law, but simply as it is prescribed by the whole facts. It occurs to me that may be safely left to the Legislature. I move to strike out "on questions of law alone," and that will not interfere with the general sense of this article and would probably be in line with the general idea of the committee.

The amendment was agreed to.

Sections 10 and 11 were read.

Mr. EICHNOR. Mr. Chairman, if there is no amendment to this section, I would like to call the committee's attention to section 8. The way that section reads the justices of the peace would be elected at large by the county.

Mr. PETERS. I just desire to ask the chairman of the committee whether the latter part of this section would imply that the judge would have a right to appear before the senate and defend himself? This simply provides that he

shall receive notice and that he shall be notified as to the time when his case would be heard. There is nothing here that says he may appear and defend himself.

Mr. GOODWIN. That is a right guaranteed in another article.

Mr. EICHNOR. Mr. Chairman, I offer as an amendment to section 8, in line 3, strike out "from each county, city, and incorporated town," and insert the following, "incorporated cities or towns, or any precincts."

Mr. CREER. Mr. Chairman, as the law now stands there are incorporated towns, but they have no justices of the peace elected for those incorporated towns. This would provide for electing a justice of the peace for the town corporations. I think that would simply incur an unnecessary expense. The present justice could act for the incorporated towns. I prefer the section as it now stands.

Mr. EICHNOR. Is it your desire that all except city and town justices shall be elected by the county at large?

Mr. CREER. No.

Mr. EICHNOR. That is the construction that can be placed on it the way it stands. You might strike out "incorporated towns."

Mr. HAYNES. Why not strike out "county" and insert "precincts?" That will cover your idea.

Mr. GOODWIN. The whole matter is in the hands of the Legislature. It is not fair to suppose that they will all be idiots?

Mr. EICHNOR. Judge, the Legislature shall determine the number of justices in the county. It says they shall be elected from each county. Suppose they say sixteen from Salt Lake County. Will they determine also where they shall be elected from—what precinct?

Mr. GOODWIN. They shall determine how they are to be elected, certainly.

Mr. EICHNOR. If there is no objection I will withdraw my amendment

and strike out the word "county," in line 3, and insert the word "precinct."

Mr. FARR. Mr. Chairman, as it now reads, I think that takes everything there is in the county, and throughout the whole State. I think the Legislature can provide how many justices of the peace there will be in a precinct. I do not think it necessary for us to say anything about it. If there is the right number of justices of the peace in each county, it covers everything.

Mr. BOWDLE. Mr. Chairman, in answer to Mr. Farr's statement, I would say that a justice of the peace is really not an officer of the county. He is elected for a precinct or for a city or a town, as the case may be, and I am in favor of the motion as it stands, striking out the word county and inserting precinct.

Mr. EICHNOR. Mr. Chairman, there is another suggestion made to me, to strike out the words "town and county," and insert "in each precinct."

Mr. MALONEY. Mr. Chairman, it strikes me this gentleman has stated the matter pretty correctly. The Legislature can fix the number of justices of the peace in each precinct, and I understand the Legislature has the right to say how many justices of the peace shall be elected in any county. I think the section is right enough as it is, and that the Legislature and the county court may regulate these minor matters.

Mr. SQUIRES. I would just like to ask the gentleman from Weber a question. Would not it be possible, under this section, for the Legislature to provide that all the justices for the county be elected on the county ticket? That is, what the objection here is—is not that so that the Legislature might provide that way?

Mr. MALONEY. I think that the Legislature might do that.

Mr. SQUIRES. That is what they want to avoid. They want the justices of the peace to be elected from each pre-

cinct and not each county. That is the way they are elected now.

Mr. MALONEY. There is no cause for any committee to alter existing laws. The voters of each precinct select their own justices of the peace.

Mr. SQUIRES. This amendment will make that plain.

Mr. MALONEY. I think it is plain as it is.

The amendment was agreed to.

Mr. GOODWIN. I move that that vote be reconsidered.

Mr. EVANS (Weber). I make the point that in committee of the whole you cannot make such a motion.

Mr. BOWDLE. I ask if he voted for it?

Mr. GOODWIN. I voted both ways. I merely wanted to call the attention of the committee to the fact that as the sentence now reads, "the number of justices of the peace to be elected in each precinct, city, and incorporated town." Now, every city and incorporated town is divided into precincts. What is the use of "city and incorporated town" in there, if we say precincts?

The CHAIRMAN. An amendment is in order if you wish to make one.

Mr. GOODWIN. There is not any amendment except when this comes up on the third reading.

Section 12 was read.

Mr. CRANE. Mr. Chairman, I have an amendment to this, line 11 of section 12, add after the word "decided" the words, "or not held by agreement of the parties."

The amendment was rejected.

Mr. CRANE. Mr. Chairman, I move to strike out, in line 5, all of that section after the word "elected."

Mr. VARIAN. Mr. Chairman, it seems to me that while the object of this matter is very good, still perhaps it might work disastrously in many cases, and in any event, it is rather an undignified position to put your judges in. I want to simply call attention to how this provision worked in California. It

went into the constitution, as I remember it, in 1874. As the business of the supreme court increased and pressed the attention of the judges, litigation accrued, it was found absolutely impracticable to comply with the technical literal command of the constitution and the judges began to devise ways, and schemes out, which made them still more undignified. In order to evade it, they were in many instances compelled to do this, they would hear arguments during a term and direct the clerk to make an entry like this: Cause so and so was argued by so and so and so and so. When they got around to the business after a time, and got ready to decide the case, they would have the entry made on the record that the cause, stating it was submitted on such a date. Thereupon the decision was filed and so they beat the devil about the bush in that way.

Now, it may be that your courts here will not find it necessary to evade this provision. So far as I am concerned, I think it is putting the judges in rather an undignified position to require them to go before a clerk every time they draw their salary, as may be necessary for them to do occasionally, and make an affidavit—it is not a certificate, they have got to swear so and so and put it on file.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to striking that out. I know that there are lawyers here in Utah—in Salt Lake who know that judges have withheld decisions month after month and almost year after year. When it has been demanded of them that they render a decision one way or the other, the judge would simply say, that he did not have to do it, and did not do it. While it may be a little undignified for a judge to take such an affidavit as that, it is quite impertinent that judges should unnecessarily sometimes withhold decisions and keep litigants out of their money.

Mr. VARIAN. The gentleman prob-

ably has in mind only one or two cases.

Mr. EVANS (Utah). One or two judges, too.

Mr. VARIAN. One or two cases in the whole course of his experience. We have not been troubled that way more than—

Mr. EVANS (Weber). Not since you got democratic judges.

Mr. FARR. I second that motion on the ground that all judges are honorable men.

Mr. EVANS (Weber). I say this, that if three months is not long enough time extend it a little longer, but do not permit the judge to arbitrarily withhold a decision just as long as he pleases.

Mr. VARIAN. Mandamus him.

Mr. EVANS (Weber). Yes; you are already in litigation in a court. You will put the litigant to another lawsuit. Of course that would be a very proper thing so far as lawyers are concerned, and it would augment their business a little, but it does not help the litigant at all. I am in favor of some limit and I did advocate a little longer limit than this in the committee and would support one now, but I do not like it to be unlimited so that the judge can do just as he pleases.

Mr. MALONEY. Mr. Chairman, I concur with what the gentleman says. He insisted on it being four months. I insisted on it being as it is. The gentleman has instanced cases where decisions have been held over arbitrarily. I know a number of them. I know a number on the bench now where they have withheld them, district and supreme judges, over six months. There is no reason for it on earth. If a judge cannot decide a case correctly in this time, he never will decide it correctly. I agree with my friend that there ought to be some limitation on this matter. I am willing for the judge to take all the time necessary. To simply pocket the file of papers and carry them about the country and deliver the opinion so long

after and let litigants or counties suffer, I say is not right and there ought to be some limitation. As far as I am concerned, I favor sixty days. It is long enough. If they cannot decide it then they will never decide it correctly.

Mr. VARIAN. Mr. Chairman, I think it is hardly fair to criticise judges in this Territory and particularly where as a rule, in the hard worked districts, they sit days on end, and in the gentleman's own district, where the judges were asked by members of the bar, after the adjournment of the court, to sit in the evening, and if they could not sit as courts, to sit as judges. Business has overworked them, and it is not strange or remarkable that in individual cases they should be unable to reach a satisfactory conclusion in the time the lawyers who were pressing for a decision think they ought to. There is no rest. Six days in the gentleman's district and in our own district the judges are on the bench. In their districts the judges sit nights. They will not do it here. Some allowance ought to be made for overtaxed human nature. You must expect those things, but now you are going to have a different system. You are going to have sufficient judges, and I suppose every judge can be reasonably expected to do his duty and perform it honorably and well.

Mr. ROBERTS. Mr. Chairman, I had just remarked that I hoped the gentleman who had just preceded me would also say that hereafter the judges, instead of being appointed, will be elected and the masters of the judges will be in Utah hereafter, and I think there will be better conduct from them on that account, and I therefore shall vote for this amendment offered by the gentleman from Millard.

The amendment of Mr. Crane was agreed to.

Sections 13, 14 and 15 were read.

Mr. VARIAN. I would like to ask if it is the intention to permit persons

within this decrease to practice law in the courts?

Mr. GOODWIN. Certainly; it says the judge shall not appoint his relatives to office, that is all.

Mr. VARIAN. At the proper time, if this article shall go through, I will prepare an amendment on that.

Sections 16, 17, 18, 19 and 20 were read.

Mr. Crane offered the following amendment to section 20:

Until otherwise provided by law, salaries of the supreme and district judges shall be three thousand dollars per annum, payable quarterly, and mileage.

Mr. CRANE. Mr. Chairman, I suggest from reading this section—it might be inferred it was three thousand dollars per quarter or twelve thousand dollars per year.

Mr. VARIAN. Mr. Chairman, we seem to be hurrying through here so rapidly it is not quite possible to give the consideration it seems to me that ought to be given to it. I want to propose to the committee and to the Convention that this question of salary, so far as the different districts are concerned, be left to the different districts. That is to say, that not necessarily shall it be uniform throughout the State. Take the Salt Lake district—that the Legislature may provide a different salary for the judges in that district, if it shall so determine, from that found necessary in other districts. Also, as connected with that, a provision that the salaries of the different districts shall be paid by those districts; but as we are proceeding, of course it is impossible with due consideration to write out amendments of that kind.

Mr. FARR. Mr. Chairman, I think this matter of salaries—the way this section reads, I do not exactly understand it. I think it must be drawn up by a lawyer. It says the salaries of the district shall be paid quarterly and shall be paid at three thousand dollars, that is three thousand dollars a quarter.

Mr. GOODWIN. The printer has left out "per annum."

Mr. FARR. Oh, that was a mistake. That makes quite a difference. The way the salaries are it would amount to two hundred and fifty-two thousand dollars per year; that is, if they had three judges for each county and each judge having his twelve thousand dollars a year—three thousand dollars a quarter. We certainly shall make a move that the salaries of the judges—there being so many of them continually sending in requests that the salaries be cut down, and the judges that had salaries here for about twenty years, they had two thousand dollars per year paid. I move that the salaries be two thousand dollars a year.

Mr. BOYER. Mr. Chairman, I would move as an amendment to the amendment that the sum be twenty-five hundred dollars per annum.

The CHAIRMAN. The amendment will be out of order until we pass upon this. There is an amendment and an amendment to the amendment before the house.

Mr. GOODWIN. Mr. Chairman, I understand there is to be an amendment offered here which will change the whole subject of salaries if it is adopted. I suggest that we pass by that until that amendment is prepared.

Mr. VARIAN. Mr. Chairman, I was going to say it is not safe to sit down and write a matter like that. I only made the suggestion. I see it is getting along in the evening. Possibly you might pass that and by morning I could bring in my suggestions incorporated in the form of a proposed amendment.

Mr. ROBERTS. I would ask if the amendment contemplated the interfering with the salary as fixed by the committee?

Mr. VARIAN. Yes, it would; it would contemplate fixing the salary so far as the Salt Lake district was concerned, without reference to what other gentlemen might desire for their own districts.

I propose to put it in such shape that each district could fill it in to suit themselves.

Mr. ROBERTS. The salary would not be uniform under your arrangement?

Mr. VARIAN. Not uniform.

The CHAIRMAN. In the third reading that could be presented and we could go right along.

Mr. THURMAN. Mr. Chairman, I do not see any reason for passing these questions. Let us settle them as we go along, and if anybody has an amendment that is not prepared, he can present it when we come to third reading.

The CHAIRMAN. The question is on the amendment offered by Mr. Crane.

Mr. FARR. Mr. Chairman, I do not apprehend that this body will vote for three thousand dollars. I am satisfied that they will vote for the amendment of two thousand dollars a year. I have that confidence that the matter staring us in the face of high salaries is what is going to frighten the people out of a great many votes, and as I have already stated the salary of judge for some twenty years was two thousand dollars a year, when everything was four times as high as they are now, and two thousand dollars a year you must remember is over six dollars per day, and their expenses for traveling are already paid. I would like to know where the money is coming from to pay all these salaries? I tell you we must look this matter over and take it into consideration and put things down within reason. This is only until otherwise provided by law. I think two thousand dollars is plenty to start in on.

Mr. BOWDLE. Mr. Chairman, I think if it were possible to pass this salary question until to-morrow I believe we could save time. I am not prepared to vote on that question, because I am in harmony with the opinion that has been suggested here. I think that it is not an unusual thing that there is a

difference in the salaries of the judges throughout the state; for instance, I know in one place where the judges in one county get a certain salary and in different parts of the state they get another salary, because of the increased work in that county. As I understand it, that is the idea that will be brought up here, and if we pass this it is sure to be gone over again. It will come up in the third reading; it will take the time and I wish that we could let that section pass until we could get hold of that amendment.

The amendment of Mr. Crane was agreed to.

The CHAIRMAN. The question now recurs on the amendment of Mr. Farr to strike out the words three thousand, and insert two thousand.

Mr. ROBERTS. Mr. Chairman, I do not want to vote for that amendment. Of course I know how anxious men are to be economical, but if there is one part of the labor to be performed by the officers of this State that we should not be niggardly in the matter of compensation for, I think we stand now face to face with that class of officers. There is danger that in our effort to be economical and please the people by voting low salaries for officers we shall plunge them into much greater loss than if we gave a reasonable salary for the services that are to be rendered. I am of the opinion that already we have gone too far in the matter of retrenchment in the payment of salaries for officers. When we take into account the class of men that it is desirable to employ in the public service, I hold that it is a matter and will be a matter of economy for the future State to pay a salary to its judges that will insure good service to the people. The gentlemen of the legal profession have such expenses, have been at so great pains to acquire the knowledge that qualifies them to fill these positions, their labor is so intricate and requires so much patient re-

search, that if you get a man who is worthy to be a judge at all in these districts, in my opinion, you have to give him at least three thousand dollars.

Mr. FARR. I want to ask Mr. Roberts if he thinks that six dollars a day and upwards is a very low salary.

Mr. ROBERTS. I admit it amounts to six dollars a day, in the event of two thousand dollars being the sum—a little less than six dollars per day. In view of the labor that the judges are to perform—in view of the salaries paid in other states for similar service, in our western states, I am of the opinion, sir, that three thousand dollars is not at all too much for this service that we expect of these judges, and I was proceeding to argue when interrupted that by paying the salary of three thousand dollars per annum we would get a service in the judges' seat that would in all probability be better economy than paying a smaller salary and putting up with inferior lawyers in the judges' seat, which would constantly entail the expense on the people of taking appeals to higher courts in consequence of bad law being in the judges' seat, and for this reason and in the interest of economy, I shall do what I can to keep these salaries up where they have been fixed by the committee. I think I can do so safely. I shall not at all be afraid of the people when we have to stand face to face with them next fall and persuade them to accept this Constitution with the salaries that it shall give, because I believe that it can be made as clear as daylight to them that this action is in the interest of economy, and that we best subserve their interests when we provide efficient judges for the several districts that we are providing. Now, these are the considerations, Mr. Chairman and gentlemen, that shall lead me for one to insist upon these salaries being at least three thousand dollars per annum.

Mr. VARIAN. Mr. Chairman, I would like to offer this substitute, in accord-

ance with the suggestion I made, for the entire section, "until otherwise provided by law, the salaries of the justices of the supreme court shall be three thousand dollars per year and paid quarterly out of the State treasury. The salaries of the district judges shall also be paid quarterly, and by the counties composing the respective districts in proportion to the taxable property of each, and shall be in each district until otherwise provided by law as follows:" leaving blank all except the third, the Salt Lake district, in which I insert the sum of thirty-six hundred dollars.

Mr. SQUIRES. I would like to ask Mr. Varian if he does not think mileage should be included?

Mr. VARIAN. I have no objection; it did not occur to me.

Mr. SMITH. I would like to ask Mr. Varian the question, what is the purpose in this amendment of yours in inserting the amount of salary that should be paid to the judges in our district and providing in the Constitution that the others shall be fixed by law?

Mr. VARIAN. The gentleman misunderstands the amendment. I leave the amounts blank for the other districts for the purpose, as I supposed, of permitting the delegates from those districts or from the counties composing those districts to agree among themselves upon the amount of salary they are willing that their people should pay until the Legislature shall change it in that district. If the gentleman will examine the amendment, he will see that in each case the Legislature in the future may change it. This is only for the present, but it has this underlying principle in it, which is not found in the section, that it may be different in different districts. You may want to pay a man fifteen hundred dollars in a small district. We want to pay a man, for instance, more than that. We want to pay our judges more, we will say, in the Salt Lake dis-

trict, where the work is heavy and continuous throughout the year. I do not wish to indicate to gentlemen from other districts what they should pay, and for that reason I submit this amendment for the approval and the consideration of the committee and they can fill the blanks if they approve the system.

Mr. MALONEY. Have you provided for any fees to be paid in to the clerks or anywhere else—from what source is money to come to pay these districts judges?

Mr. VARIAN. I intend to offer a provision contemplating the changing from the fee system to the salary system, and requiring all fees of the county officers—at least of sheriffs, clerks, etc., to be paid into the county treasury. Clerks of the district courts I think ought to be all on salaries, if that system prevails, and it would be a very large percentage of the salaries we have to pay paid through these fees and there would be very little left, as we think, for taxation.

Mr. CREER. The salary of the district judges now is twenty-five hundred dollars, is it not?

Mr. VARIAN. No, sir; it is three thousand dollars under the United States, and \$750 per annum appropriated by the Territory. It has been for years one thousand dollars additional, making four thousand dollars a year.

Mr. CREER. If you would make your substitute to cover your four districts I would support that, and let the rest be twenty-five hundred dollars.

Mr. VARIAN. I would say to the gentleman, the purpose of leaving these blanks is that they may be filled by the members from the different districts.

Mr. CHIDESTER. Mr. Chairman, I oppose the substitute as it stands now, but I would not oppose one if it was based on this idea that the salaries should be, say, fifteen hundred dollars or two thousand dollars, with a pro-

viso that any district may raise the salary to any amount that they felt so disposed, but to make the salaries as contemplated in that substitute would not satisfy me.

Mr. VARIAN. I do not understand it exactly. The salaries are not prescribed there, except for our district.

Mr. CHIDESTER. The mode of paying the salaries is prescribed in that substitute, by asserting that the districts shall pay their judges. Now, I oppose it on this ground, that I believe it should be stated in the section that the judges should have a certain amount. For illustration, I would say fifteen hundred dollars or two thousand dollars, then at the end of the section make a proviso that any district may raise the salary to any amount that they see fit; that would give them a chance to obtain the best talent there is in the world if they so desire, and all the districts could do the same.

Mr. RICHARDS. Mr. Chairman, I am in favor of Mr. Varian's substitute. Now I realize, I believe, the necessity of economy, and it is for the very reason that I do believe in economy that I think this substitute ought to prevail. There are certain districts in this Territory where men can be obtained who will serve and be capable of serving at a much less salary than men who could perform the duty and fill the office in other districts in this Territory. Now, it is, as you all know, a fact that the cheapest is not always the most economical in anything. If you want anything done that requires skill and ability, you want to get a man that is able to do that and to do it right. The cheaper you can get it done and have it done right, the better, but if you employ some one who is not capable of doing it as it should be done, no matter how little you pay that person, it is liable to be an exceedingly expensive job, and the expense will depend largely upon the nature and

character of the work that is to be done.

Mr. CHIDESTER. Wouldn't this suggestion of mine meet that proposition that you make?

Mr. RICHARDS. Not if I understand your proposition correctly. It seems to me impracticable. I do not understand how any of the district judges can change these salaries. They must be changed by the Legislature.

Mr. CHIDESTER. Let me state the proposition that I made. Under this substitute the different counties in the districts would pay their judges. My proposition was this, that the judges should all receive the same amount of pay under this Constitution, with a proviso that each district if they saw fit themselves should make a further payment to secure better talent if they felt so disposed.

Mr. RICHARDS. That is exactly the objection I state. I do not see how it is possible for the districts to legislate in that matter and determine that they will increase the salaries. That I understand is a matter of legislation.

Mr. CHIDESTER. By appropriation.

Mr. RICHARDS. The districts are not political subdivisions; the districts are comprised of various counties and each county is separate and distinct.

Mr. CHIDESTER. Then how would they make the payment under this only by appropriation?

Mr. RICHARDS. They will make the payment certainly by appropriation, but the full amount will be determined, fully determined, and fixed in the Constitution. They do not have to meet and legislate on the subject of what the amount shall be. They simply apportion among the counties comprising the district the amount, whatever it may be, that is fixed in the Constitution. Now, I was going to remark on this subject of economy that we sometimes make a mistake in getting things that are cheap and suppose that we are

pursuing a system of economy; that would be false economy. Now, for example, you take the machinery of a court of general jurisdiction, such as the district court, and we are now trying to fix the salary of the judge. Why, the salary of the judge is a very small part of the expense of the district court. Every day that that court sits that judge receives perhaps five or six dollars; if the jury cases are on trial he perhaps has thirty jurors in attendance; the district court in this city to-day, I presume, has sixty jurors in attendance; that would be sixty dollars or one hundred twenty dollars as the case may be. The marshals are in attendance, the bailiffs are there; the other officers of the court. They are all in attendance, and their expense has to be paid. The other expenses, we will say, aside from that of the judge, which might be five or six or ten dollars a day, would be fifty or seventy-five dollars a day. Now, you take an efficient judge and put him on the bench and that man will do twice the amount of work that an inefficient man will do. Then, I say, if you paid that man ten dollars a day and he saves you fifty dollars, is it not a matter of economy that you should have him instead of hiring a man and paying him four or five dollars and let him fritter away the time of the court and keep these people in attendance. Time is saved in two ways or is wasted in two ways. One is by reason of the efficiency of the judge, he hastens business; the business is pushed along. Why, you go into our courts and you see the proceedings before one judge and then go from there into another branch and see the proceedings there, and you will observe at once a very great difference in the way the business is conducted. In one branch it will proceed much more rapidly perhaps than in the other, which is due to the peculiarity of the judge. One man has the talent and the ability to expedite business and to hasten it along, and in that way

time is saved. But, gentlemen, there is another way in which time is saved by an efficient judge. You put a man on the bench who is incompetent and that man will make mistakes. He will commit error and the appeal goes up, not from that judge to himself sitting upon the bench, nor to his colleagues, but it is going up to another tribunal, a tribunal which will have no sympathy with him, so far as condoning his faults and errors is concerned, a tribunal whose duty it will be to apply the cold principles and rules of law and to determine whether or not he has proceeded in conformity therewith, and if they find that the man has made a mistake, they reverse his decision and the case goes back; and those reversals usually come in cases of great importance and trials of great length, as for example a murder case, that perhaps has taken a week to try, which is no unusual thing, to consume a week's time in trying a murder case. And suppose the judge makes a mistake, suppose he commits an error in the trial of that cause, there is a week's time lost, not only the salary of the judge for a week, but fifty or seventy-five dollars a day or perchance a hundred dollars a day has been lost to the State by reason of the mistake that this man has made. Or an important mining suit that involves, as cases have in this Territory, three or four weeks, time, or a month's time in trying, and an incompetent and inefficient judge makes a mistake. He is reversed. The case has to be tried over again, and all the time and all the expense, not only of the judge, but of the whole machinery of the court, has been lost and it has all got to be done over again, and the State has to pay for it. So, I say, gentlemen, when we look to economy, we have to look to true economy, and be careful that we do not fall into the error of false economy.

Mr. GOODWIN. Mr. Chairman, we cannot finish this discussion to-night. I move the committee now rise.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee has had under consideration the article on education and school lands and reports the same passed, and recommend that it be placed upon the calendar for third reading, and also reports that we have had under consideration the judiciary article and report progress.

On motion, the Convention then, at 5:12 o'clock, adjourned.

FIFTY-FIRST DAY.

TUESDAY, April 23, 1895.

The Convention was called to order at 9 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Delegate Halliday, of Utah County.

Mr. CANNON. Mr. President, I move that we suspend the rules and go into committee of the whole.

Mr. SQUIRES. The chairman of the judiciary committee is not here.

Mr. HART. Mr. President, the chairman of this committee, no doubt, will be here soon. I think we can take up the article on third reading on education and school lands and dispose of it now. I do not know anything connected with it particularly that requires the chairman to be present.

The motion was rejected.

The Convention then proceeded to the third reading of the article entitled education.

Sections 1 and 2 were read.

Mr. PETERS. Mr. President, I desire to renew my motion to strike out section 2. I made the motion on Friday.

Mr. VARIAN. Mr. Chairman, we do not want this action to be taken at this stage. Section 2 has received a prolonged consideration by this Convention in committee of the whole. A compromise was reached, as I thought, that would be fairly observed. Cer-

tainly that was what might fairly be considered from what was said by those who were opposed to some features of section 2. Now, by striking out this section you leave the question open so far as Salt Lake City and Ogden City are concerned, in relation particularly to the high schools. The amendment that was incubated, slept upon, the nature of the proviso that was adopted to this section, received the unanimous support of the Convention in committee of the whole on yesterday. I trust that we will not have to go over that ground again, and that we may rely upon the good faith of those gentlemen who acquiesced in the suggestions incorporated in that proviso.

Mr. PETERS. Mr. President, I do not desire to take up much time, but I have the same objections to this section to-day that I had on Friday, and I would like to state a few of them. I stated then that I was opposed to a binding down of the proposition. Section 1 of this article provides that the Legislature shall provide for the establishment and maintenance of a uniform system of public schools. Then it goes on to say what the public school system shall be. Now, I do not see any good in trying to form an unchangeable and detailed plan of a school system.

Mr. SQUIRES. May I ask the gentleman a question? Does he not know that an amendment has been made to this section in these words: "And such other schools as the Legislature may establish?"

Mr. PETERS. I am aware of that amendment too. But I know further that the friends of the city schools, according to my idea, are jeopardizing those schools. The Enabling Act, section 6 says, that sections 2, 16, 32, and 36 are granted to the State, the proceeds of the sale of which shall go to the support and maintenance of the common schools. Now, if I understood the remarks of the gentleman from Salt

Lake, the proposition is that Salt Lake City and Ogden shall have the right to maintain a high school. A high school is made a part of the public school system. Being made a part of the public school system, they expect to get a portion of the fund which is obtained from the sale of these lands for the support of their school in proportion to the number of students that they have in attendance who are within the school age. Those children attending the high school will be drawing from the public school fund which is known as the common school fund.

Mr. VARIAN. Wouldn't they be drawing money anyhow between eighteen years and six?

Mr. PETERS. They would be drawing it.

Mr. VARIAN. Of course.

Mr. PETERS. The name of the school is changed. It becomes a high school and a part of the system, and as the section now reads it says that all common schools shall be free, so it strikes me that we are too good, as the saying is, to the school system, and by that means we have a tendency, according to my idea, of providing future legislation which will be in accordance with the growth and development of the educational system. The tendency is to make schools more practical and we do not know what the future may bring about as to the kind of schools.

Mr. EVANS (Weber). Mr. President, it seems to me that section 1 is sufficient to provide for anything which will be found necessary in the future respecting our school system. I am like Mr. Peters. I see no necessity for section 2. It provides a fixed, rigid school system, which, if in the future the Legislature shall deem it wise to change, it would be unable to do so. If we were simply to say that the Legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of the State and free from sec-

tarian control, that would be ample for all purposes. As I understand it, that would leave our school system as we have it now.

Mr. BUTTON. Would that first section make public schools free?

Mr. EVANS (Weber). That can be very easily remedied.

Mr. BUTTON. It don't do it as it is.

Mr. EVANS (Weber). All that we would have to say is that the common schools shall be free and that would not be a limitation upon the Legislature to make other schools free if it desired to do so. Now, I have examined a good many constitutions and I find that this is somewhat out of the ordinary—to fix the particular class of schools or system of schools which the Legislature in all future time must provide for. For instance, you take the great state of New York, with all its complicated and elaborate system of public schools, and it has about three lines, simply saying in effect that it shall be the duty of the state to provide a free common school education free from sectarian control. That does not argue that we are not in favor of the higher schools. We are, in Salt Lake and Ogden, at least, and I desire to maintain them there; but what I object to is a fixed, rigid, unchangeable system of schools in the Constitution. I would rather leave it more flexible, so that it would meet our conditions of the future. If we are prosperous and have plenty of money we can establish a higher grade of schools at the public expense. If we should happen to be poorer and unable to raise sufficient means we should simply limit the public moneys to the education of the children in common schools. I believe that it is the part of wisdom to strike that section out, and I believe it would do no harm to any section of the Territory.

Mr. FARR. Mr. President, I understand from our present system, according to what we have got, we have

fixed the school age in which our children shall have public support to the age of eighteen. We no doubt will have some members of the school and some of our children will graduate at eighteen, while others will want to go on until twenty-one and twenty-two, and so on upwards, as long as they are a mind to go and support themselves, but they get no public support according to the provisions of the law, after they are eighteen, and some of our children are better prepared to graduate at sixteen than others are at eighteen. Now, why should we cut off those that are capable and have got natural abilities and have applied their minds to study and got so far along—to cut them off at sixteen, if they are prepared to go into a high school at sixteen? I say let them have the money that is appropriated for all schools alike, whether they are very smart or not so very smart. Let them have the money until they are eighteen, even if they want to go into a high school, and we cannot provide for them after they are eighteen. Then the benefit of the money of all these different sections will go to them until they are eighteen, and they should be kept on, in my opinion, improving, and be supported out of this money until they are eighteen, the same as if they were not quite so smart, consequently, I think, the section is all right as it is.

Mr. EICHNOR. Mr. President, the way the section originally appeared, no doubt it would be better to have it stricken out, but after the amendment that was proposed by Judge Goodwin and adopted in committee of the whole; I think the section is very good. In other words, the section as now amended is flexible. Any contingencies that may arise in the future in the way of some new school can be provided for. Now, gentlemen, what is the object of striking it out? If Salt Lake City has twenty thousand children of school age, we will just get a certain

proportion of the school fund of the State. It does not interfere with any one, either, in the high school or the common school or the kindergarten. Not a county outside of Salt Lake pays one cent more if this provision is placed in the Constitution. It simply guarantees that we may proceed and conduct our high schools in Salt Lake City and Ogden, and such other districts as the Legislature shall provide. A number of objections were raised to the amendment of Mr. Varian at first. Mr. Chidester, of Garfield, and various others objected to the amendment as it was first proposed. It was then agreed by common consent to let the matter rest until the following day and the defects were cured.

Mr. L. LARSEN. Mr. Chairman, we have provided in section 1 that the Legislature shall provide for the establishment and maintenance of an uniform system of public schools, etc. I move that we strike out, beginning at line 1 in section 2, "the public school system shall include, first kindergarten schools, second, common schools, which shall consist of primary and grammar grades, third, high schools, and fourth, a university."

Mr. ELDREDGE. Mr. President, before that motion is put to strike out, I would like to offer an amendment to the section. I would move to strike out the word "kindergarten," which appears in the second line, and add at the end of "university," in the fourth line, "and such kindergarten schools as the Legislature may provide for by law." My idea in moving to strike out the word as it there stands is that I do not think it should be made a part of the system. That would leave it optional with the Legislature to provide for kindergarten schools.

Mr. VARIAN. There is an amendment which would cover that.

Mr. ELDREDGE. Well, if the amendment covers the grounds so that the Legislature could provide for the school

that would reach the end which I was endeavoring to get at.

The amendment proposed by Mr. Eldredge was rejected.

The PRESIDENT. The question is now on the motion to strike out the entire section.

Mr. PETERS. Mr. President, I just desire to ask the gentleman a question. It may be that if I can understand this section right, I will withdraw my motion. The way I understand it, at the present time—and I would like the gentleman from Salt Lake to correct me if I am wrong—it would require each district—that is, the Legislature in passing a school law will naturally require each district to have kindergarten schools in connection with their schools in the district. Section 1 goes on and says what the school system shall consist of, first a kindergarten; they will have to provide for the maintenance of that or its support. Now, if that is not a correct interpretation of this section—that is one of my greatest objections—the districts are not prepared to establish kindergarten schools, except in the cities. I ask if that would be the correct interpretation?

Mr. VARIAN. Mr. President, it is true that the kindergarten school should become a part of the public school system, but they are not free schools. That is left open to the Legislature. So far as I have been concerned, at no time during the discussion of this question have I had anything to say upon that question. I am dealing now with the free school system here.

Mr. EVANS (Weber). What Mr. Peters wants to know, and I would like to understand it, too—the kindergarten schools would be a part of the public school system, and the public would be required to support them just the same as it would the university, would it not?

Mr. MAESER. No, sir.

Mr. VARIAN. Mr. President, if the Legislature provided for it, yes—by local taxation, I suppose. That question

was all gone over the other day. So far as I am concerned, I had nothing to say about that kindergarten system. I supposed that the house was perfectly satisfied upon that question. As it stands, it will require an act of the Legislature to provide for the support of the kindergarten. If your Legislature that you send up here want kindergarten schools, they will provide for their support. Now, it comes in the same line with the university. What I am dealing with here is the proposition to strike out this declaration that you are going to have a free school system here. Consider it first from the general standpoint. What effect is it going to have upon emigration? If you have a declaration like this in your constitutional law, that you are going to have a free school system in part at least so that it can be changed, doesn't every gentleman know that that will appear more strongly than any other advantage that this people can offer to people looking for a home for themselves and their family—the irrevocable promise that there shall be such a school system here as is in accord with the systems elsewhere in the United States, free to them and to their children? You strike it out or leave it in that uncertain way, and I tell you, gentlemen, you are retrograding twenty years in this Territory. Now, as to the second branch of the proposition, I call attention to the fact, as was suggested by my colleague from Salt Lake, that it will not and cannot in any degree interfere with the sum of money that this city—for instance, to make a pertinent illustration—will be entitled to get. It is not the number of pupils, I will say to the gentleman, who attend the high school or the common school or the kindergarten schools, or the university, that make up the basis of school apportionment. It is the number of children between six and eighteen years of age. Am I not right—eighteen years of age?

Mr. PETERS. Yes, sir.

Mr. VARIAN. Now, it makes no difference, sir, whether those children attend school or not; that is, so far as the apportionment of money is concerned. If only a third of them attend the school and there are no laws sufficiently effective to make the remainder attend school, still the proper apportionment of school moneys made up from territorial taxation and county and city taxation are diverted unto the Salt Lake City and county school fund. That being so, it can make no difference to any other county or district how they are expended. This proviso goes to this extent, that if the school fund, so apportioned to a city or district, as I have indicated, shall not be sufficient to maintain these schools free, then the high schools shall be maintained by local taxation. That is fair. If there are enough children in the county and city and if there is enough money to make a sufficient apportionment for our special purposes, it can make no difference, I submit, that we have enough to run a high school too. If we have not we must maintain the common schools with what money we have got, free, and support the high school by local taxation. Now, that is all there is in it, and I submit we ought not to be met with further objection on that score.

The PRESIDENT. If the word free was put before "public school," in the third line of the first section, would not that answer the whole purpose?

Mr. VARIAN. No. That would leave the question open, Mr. President, to have the Legislature determine that the high school should not be a part of the free school system. That is the whole ground that we went over the other day. We are perfectly willing that the outside counties shall have the question left open that way, but we have in this city too much money here—we are too heavily in debt. Our system has gotten under way. The whole community is impressed with it from the children to

the parent, and I am told that it is so in Ogden. We do not want it changed, and we do not want the menace of change fixed by omission or commission upon this statute here, and we simply ask you to leave it as it is. It cannot affect you.

Mr. GOODWIN. Mr. President, I want to impress upon some gentlemen who seem to have a wrong idea of these actual facts. The free school system of Salt Lake City is decidedly the biggest advertisement that Utah has. The high schools of Ogden and of Salt Lake are the wonder of people that come here, and when gentlemen look at these schools they think there is something wrong. They do not stop to think of their effect. That if, for instance, there was a fund of a hundred thousand dollars to go to Salt Lake and to Sanpete, that no matter about the high school, if Salt Lake had six thousand children and Sanpete had four, Sanpete would get four-tenths of all the money and Salt Lake would get six-tenths, and it would not matter whether Salt Lake put her money in high schools or anything else. We went over this thing two hours the other day and spent out of the United States money and I guess our own funds probably one full half day. It probably cost us three hundred dollars—this discussion of this matter the other day. It is all right as it is. I hope the Convention will let it stand.

Mr. ANDERSON. Mr. President, I am opposed to the motion to strike out. I am in favor of the section as it stands. I think that it is broad enough to embrace every system that is possible for us to want in the future, and I think that the common schools should be free. Therefore, I will vote in support of the section as it now stands.

Mr. PETERS. Mr. President, I do not desire to be misunderstood on this proposition. I am not attacking all of the schools of Salt Lake City, and I am not unfamiliar with the school law

either. I think I know nearly every line in the school law and particularly the school system of Salt Lake. I have written that law once and was very familiar with it. Now, I do not want to be misunderstood that I am attacking the high schools, but I claim that if we put in free common schools, Salt Lake can get all that she has now. Why is she so tenacious to hold on to the high schools? The article which provides for the city schools also says that it shall provide for high schools and mechanical schools and manual schools. Now, they only include the schools named. It may be in ten years from now they will want mechanical schools connected with the high schools here in Salt Lake City. They may want manual schools. The tendency of the age is——

Mr. VARIAN. The gentleman will permit me to call attention to the fact of the amendment adopted by the suggestion of my colleague on yesterday, "such other schools as the Legislature may provide."

Mr. PETERS. I understand that, but you seem to think I was attacking the high schools. I do not wish to be understood that I was attacking them, but I wanted it to be left open for future legislation, in order that they can legislate according to the progress of the age. I have no desire to attack any system.

The motion of Mr. Peters was rejected.

Section 3 was read.

Mr. VARIAN. Mr. President, it might be well to insert a provision there including all unclaimed shares or any dividends of corporations included under laws of this State.

Mr. GOODWIN. I think that suggestion came in connection with the deaf and dumb and blind asylum.

Mr. VARIAN. Well, the principle is the same. I move to insert after the word "purposes," in line 8, the words, "and all unclaimed shares and divi-

dends of any corporation incorporated under the laws of this State."

Supposing that we change that and offer it after the word forfeiture in the 5th line. I would ask the chairman of the committee whether that was considered?

Mr. PIERCE. That was considered in the committee. We are willing the school fund be as large as it possibly can be.

Mr. BOWDLE. Is that not covered by the preceding clause—the proceeds of all property that may accrue to the State by escheat or forfeiture?

Mr. VARIAN. No; I do not understand that private property is forfeited to the State except in cases of decedents; they are the only forfeitures that I know of.

The PRESIDENT. Wouldn't that come in the fourth line—the proceeds of all property or stocks unclaimed?

Mr. VARIAN. No, sir; that would presuppose that it must be escheated or forfeited. Escheat and forfeiture of property is a very different question. That is to take in for the benefit of the State all dividends on stock that may be allowed to accumulate and which I am told is done frequently in commercial cities, and no one gets the benefit of it eventually but the holder. It is not called for; it is not escheated property or forfeited property in the sense that it is used there.

Mr. MONS PETERSON. Mr. President, I have a substitute I wish to offer for section 4, as follows:

The university of Utah shall comprise all departments and institutes of higher learning of the public school system, including the school of mines, the agricultural college, the state normal school, and such literary, scientific, and technical schools and colleges as may be established by law, and shall be located at Logan, Cache County, provided that normal schools, experiment stations, and the school of mines may be established by law at other places.

The Legislature shall provide at its first session for the removal of the university to Logan by September 1st, 1896.

Mr. ANDERSON. Mr. President, I am opposed to this substitute. I think that the university and agricultural college should remain where they are, but if they should be united, I think that Salt Lake City is the proper place for the establishment of our higher institutions of learning. It is nearer the center of population and in my opinion it is the best place every way. Therefore, I am opposed to this substitute.

Mr. KERR. Mr. President, the question has been already quite thoroughly discussed before the Convention. I do not desire to take up the time of the Convention in going over any of the ground which has already been covered in this discussion, but this substitute, as I have stated before, it does seem to me is one of the most important subjects that has come before this Convention. First I desire to call attention to two or three points which I should have replied to before, that have been made on the floor of the Convention, after my remarks on Saturday morning. It has been stated that the students in the agricultural department of Cornell were looked down upon by the students of other departments. In refutation of that, I desire merely to call attention to two points; first the honors won by the present class and the demand for graduates in agriculture as managers of farms, and teachers, testify to the high character of the work done by the students.

Now, I admit, Mr. President, that if the students of the agricultural college of Cornell university were looked down upon by the students of that institution, they would have little opportunity to participate in the oratorical and other contests in that institution. The fact is, gentlemen, that you would hardly know the departments in which the students of that or other great universities are laboring. While there I associated with students in the engineering courses, in agriculture, arts, letters, philosophy, etc., and in the classes in mathematics, in French, in

German, in history, and subjects of this kind. We there associated together, in the departments in which we were registered; an hour or two a day at most, and that only during the junior and senior years is devoted to the technical work, or the work which characterizes the several courses, and I state that the students of the agricultural college of Cornell university and the agricultural departments of other institutions are not looked down upon. Again, we find that students in institutions of higher learning gain prestige and position through their intelligence, their ability, their energy, and not from show. As an evidence of that, I need only call your attention to a number of students, whom I know now in eastern institutions. The only class distinction in these great universities is freshman, sophomore, junior and senior. They have their class organization. Who is president of the senior class of Michigan university to-day? A poor farmer boy of Utah, and I grant you that were he looked down upon he would not occupy that exalted position is that great university, and he also is a student in civil engineering, one of the courses of the colleges of agriculture and mechanical arts. Who of all the students of Cornell university, numbering nearly twenty-two hundred, was selected as the man to represent that institution in the great oratorical contest at Chicago? Young Nebeker of Logan; a poor farmer boy, a graduate of one of our Logan colleges. If he were looked down upon, how is it that he was thus recognized? It is ability, I repeat, and intelligence that give to students in these great universities prestige and influence. It is not merely show. It does not depend upon the courses in which they are registered.

In the university of Utah and the agricultural college of Utah, I stated in my remarks Saturday morning, there are certain courses which are the same. The work in the agricultural college is

to a great extent a duplication of that of the university, as taken from the two official catalogues of those institutions. I have noted here of the thirty-seven subjects of instruction in these institutions, only eight are given in the agricultural college that are not being given to-day in the university of Utah. This is official. I need not take your time in enumerating the subjects, but of thirty-seven subjects, only eight that are given in the agricultural college are not given in the university of Utah. The other twenty-nine subjects are being taught in both institutions, and by a union of these institutions there would result a large saving. Now, again, it was stated by one gentleman that the union of these institutions would be largely an experiment. Why, gentlemen of the Convention, in many of the states throughout the United States for years and years these institutions have been united, and I have here a letter from Commissioner Harris, the United States commissioner of education, in which he makes the statement that in the following states or territories the agricultural colleges are connected with state or territorial universities:

Arizona, Arkansas, California, Delaware, Georgia, Idaho, Louisiana, Minnesota, Nebraska, West Virginia, Wisconsin, Wyoming, and New York—the greatest agricultural colleges of the nation, the greatest schools of technology of the United States, established in pursuance of the Morrill act, are connected with the universities of these states. Now, the question is, can we afford in this Convention to grapple with this question and finally settle it? I tell you, gentlemen of the Convention, who have been working so hard to keep down the expenses of the State, that which will result in an annual saving of thousands of dollars of the people's money is worthy of our consideration and it is not a question that should not be handled by this Convention. It is a question, I venture to predict again, that

will result according to our action in our having no institution of higher learning in Utah or our attempting to maintain the institutions apart, and if we do that, and tax the people sufficiently to maintain these institutions, as separate institutions, we will fasten a mill-stone about the necks of the people which will drag them down to bankruptcy. Can we afford to do it? I say, gentlemen of the Convention, let us take this question and consider it upon its merits. Now, one question as to location. It is evident from the action of this Convention taken yesterday and Saturday that the union of these institutions cannot take place at any other place than Logan. I came to this Convention a strong advocate of union; I have been an advocate of union for three years. I believe that it is in the interests of the people of the State, educationally and financially. The greatest educators of Utah, including the president and vice-president of the university of Utah, and the professors of the university of Utah to-day, say, gentlemen of the Convention, unite these institutions at Logan and let us not starve out the university and the agricultural college. Let us have an institution of higher learning, in which the young people of Utah can prepare themselves for the profession and work of life. After all, are there any serious objections to the removal of the university to Logan? I admit, gentlemen of the Convention, that many of the supposed points against Logan, when examined, do not amount to much. Referring again to Cornell university—I could refer you to many other institutions, but I refer you now to that, because it is an institution with which I am more familiar. That institution is located, not in the center of the state of New York, not in a great city of commercial importance, of great population, but in the small town of Ithaca, in the lake regions of New York, and that institution having been established

for twenty-seven years, ranks to-day among the best institutions, not only of the United States but of the world. They have students there from different countries of Europe, from different countries of Asia, and indeed, also from the more civilized countries of Africa. They have students there from all over the world. It is an institution, the growth of which is not paralleled in the history of higher education in the United States. The university spirit predominates there.

The people of Cache County are very much interested in education. That institution already there is their pride, and if the university goes there it will be the pride of the people of that county; it will be the institution of the county; it will be the life of the county; the papers will take pride in advertising the institution, and they will take part in supporting the institution. As to the question of location, its not being in the center of Utah, I desire to call attention to merely this, students who go there will have only to pay the additional expense of railway transportation from here there, and the difference in living there will far more than counterbalance that. It is in a city, the prevailing atmosphere of which is such as to in no way interfere with the work of the students. I will just call attention to one fact, of the two Utah students who graduated with high honors in Harvard, it having required only three years for them to complete the four years' course, one was honored with being appointed the only member of five hundred students in chemistry, a member of the German society of chemistry. They graduated with high honor in civil engineering, having had charge of their classes in their summer schools. They were graduates of one of our Logan institutions. The president of the senior class of Michigan to-day is a graduate of one of the Logan institutions. I have labored in Salt Lake. I have labored

in the university here; I have labored in the college at Logan, and I know that the surroundings there and the climate there are all favorable to the work of higher learning in those institutions. Now, gentlemen of the Convention, meet this fairly, and I state frankly that I did not come here to wage any local fight. All I want is that we take such action as will secure to the people the greatest possible higher educational opportunities for the minimum expenditure of money. Let us consider this union elsewhere than at Logan as impossible. Let us unite the institutions therefore at Logan. Let us, instead of having two struggling, starving institutions, have one institution that is worthy of the State.

Mr. SQUIRES. May I ask the gentleman a question? It has been stated here this morning, and I would like to have you confirm it if you can, that the building at Logan in which the agricultural college is now located is sufficient and will be for many years to come, for the combined uses of the two institutions. Is that a fact?

Mr. KERR. Thank you. I am very glad you asked that question, because I can now answer it. And to show you that I am not prejudiced I will give you exactly the same answer that I gave a year ago when I was then professor in the university of Utah and was in no way connected with the agricultural college or any other institution in Cache County. By converting the boarding house there into a physical and chemical laboratory, the buildings there are ample to accommodate all the students of both institutions, and a year ago when I went there, I took my note book and noted the size and number of all the rooms in the buildings and made a very careful estimate of the capacity of the buildings, and I am free to state, as I stated then, that by converting that boarding house into a physical and chemical laboratory, and it would require but a

very little to do that, the buildings are ample to accommodate all the students of both institutions. Now, really, the expense that will be incurred in moving the university to Logan is simply the expense of transporting the apparatus from here there, in addition to the small amount that would be required to remodel and fit up the boarding house as a laboratory. Now, all of the students could be accommodated in the other building; but to be frank, I said that in my judgment this boarding house should be converted into a chemical and physical laboratory, in order that the students may be amply provided for.

Mr. EICHNOR. What would you do for a boarding house?

Mr. CANNON. Build another one.

Mr. KERR. The students board with private families. The students of the Brigham Young college do that and the fact is that the students of the agricultural college do the same. Very few of the students occupy rooms in the boarding house, so I am informed. They prefer to live in private families and would do that if the boarding house is used for a laboratory. And in that connection I will state just, locate the institutions there and there will be dormitories or boarding houses established all around the campus there for the accommodation of students. There have not been during the last few years, because they were afraid the institution might be removed and then their property would be lost, but just fix it there permanently and these houses will be built up around there and then the students can be amply provided for free of cost to the State.

Mr. GOODWIN. How far is it now from the college to the town where there are houses?

Mr. KERR. The houses come right up to the college.

Mr. GOODWIN. Is the agricultural land attached to the Logan college proper in all respects for an experimental station?

Mr. KERR. I will be frank with the gentleman from Salt Lake. I will state that the soil there is a good soil and the lands are good. Now, when the State can afford it, my opinion is and has been that there should be one or two other experiment stations in the State.

Mr. GOODWIN. The reason I asked you was some gentleman, I do not remember who, told me that it was impossible to raise anything on the soil without a wind rake behind.

Mr. KERR. That is certainly incorrect. It is a good soil, and in every way adapted to the work going on. I will state also the college has a water right for all the water that is required for any and all purposes; it comes out of the canyon there and is ample to provide all the water needed.

Mr. GOODWIN. Do the shrubs planted on that soil stand up straight or do they lean?

Mr. KERR. I could not say.

Mr. GOODWIN. Some gentleman—if he is a liar he must be outside of this Convention—told me that all the plants leaned towards the college, that the winds from the canyon kept them that way.

Mr. KERR. There is of an evening in Logan a gentle breeze from the canyon there which makes it very pleasant in the summer, but I do not think it is sufficient to interfere with the shrubbery on the hill.

Mr. JAMES. Mr. Chairman, I arise for the purpose of asking unanimous consent of this Convention that a gentleman present here, who I think probably can give this Convention some information regarding this question that will be a benefit to us all, Doctor Talmage, be permitted to make a few short remarks regarding the university of Utah.

Mr. ANDERSON. Mr. President, before Mr. Talmage speaks I wish to offer an amendment bearing on this subject. I wish to amend the substitute by striking out "Logan, Cache County," and inserting "Salt Lake City," and strike

out "university to Logan," and insert "agricultural college to Salt Lake City."

The PRESIDENT. If there is no objection the doctor will talk to us a few moments on this educational question.

Mr. TALMAGE. Mr. President and gentlemen, I cannot refrain from expressing my very great gratitude for this unexpected and I believe unparalleled honor that you bestow upon me. I am informed that certain delegates in the Convention have been inclined to doubt the statements that educators connected with the university here have felt to sanction the proposition to move the institution to Logan. I would say in that connection simply this, I believe that every earnest educator in Utah recognizes the absolute necessity of the union of these institutions, in order that anything may be accomplished worthy of the institution of higher education in the State of Utah. I believe that the State is within two hundred thousand dollars of the total indebtedness allowed by the Constitution, and that for several years the agricultural college, the university of Utah, perhaps also the reform school and other territorial institutions, have been to a great extent conducted upon borrowed money, the indebtedness of the Territory increasing from year to year. I submit that if these institutions remain apart, it will be absolutely impossible for the Territory or the coming State to provide funds ample for the work and that in consequence we will have two weak institutions.

I believe that the educators here cannot be charged with having any personal aims in this movement or any selfishness at heart at all. It surely must appear to be a purely professional motive which prompts them—educationally. We regard it as altogether a wrong principle to separate these institutions. Professor Kerr has read to you a letter from the commissioner of education of the United States, and it is but a few weeks ago that I had the

pleasure of a personal interview with that distinguished gentleman, and a conversation with him concerning this matter, in which he urged for the sake of the future State that we would refrain from that destructive policy that is ruining the educational interests of a number of states and territories which have become virtually a by-word in the educational world through the separation of these interests and the segregation of these different departments. In the department of domestic arts—and it was to that department to which Professor Kerr alluded—there are thirty-seven subjects offered in the agricultural college, and of those thirty-seven twenty-nine are carried on at great expense in the university of Utah to-day. The classes in those several courses are of sufficiently small size to be conducted by one and the same teacher and with practically the same equipment, except in the case of laboratory work, which of course would require new apparatus and material from year to year. I have been in favor of the union of these institutions at Salt Lake City. I believe those who have conversed with me upon the matter know that full well. But location has always been—I was about to say, secondary—but I will say, very, very greatly subordinate to the question of union. I think that without this union there is little prospect of a strong institution being built up in Utah. I am not here and do not take advantage of this courtesy you have extended to me to advocate Salt Lake City or Logan, or any other place in the Territory. I would rather see the combined institution placed in the extreme south than to see both institutions placed in Salt Lake City and kept separate, for the reason that there would be a waste of energy that will consume the funds and result in ill effects as long as the institutions remain separate. I cannot believe that for fifty years to come Utah is going to increase in population and wealth so greatly as to

make it advisable to carry on these institutions separately.

If they were combined it would seem to me both reasonable and in every way proper that the name agricultural college of Utah should be retained, that the identity of the institution should be retained. To me agricultural college stands, I believe, supreme above all other courses that are offered in the Territory in importance. I am a lover of agriculture and of agricultural pursuits and agricultural arts, and would do nothing, if I had the power to do it, that would hinder the work of that institution. I have never cast a reflection upon it, and have only had words of honor and praise upon my tongue for the institution. I submit that the effectiveness will increase, that its good works will be multiplied by making it work in harmony with other departments. Its work will be strengthened in its academic branches, which every student of agriculture ought to be trained in, and that without special expense to the institution. I understand that some question has been raised as to the possibility of that institution losing its appropriation from the government if it be made part of another educational institution. I ask you to consider that act providing for the endowment and for the support of agricultural colleges, and you will see that one part of that appropriation is to go to the institution that maintains the agricultural department, or an agricultural college. That was plainly, then, the intention of the lawmakers that in most cases—in many cases the institution known as the agricultural college of the State would be a part of some other institution. I want to take this advantage of your kindness, to urge most earnestly the welfare of higher education of the country and State of Utah, and to submit that that can be achieved by union. I have nothing to say in favor of Logan. There are others who have represented the

claims of that city. I have absolutely nothing to say in favor of Salt Lake City, more than I have said. There are others far abler than I to urge those claims. But provide for union. Leave the matter for the Legislature as to the location, or provide for such now, but, gentlemen, this state of uncertainty is turning away every stream of endowment that was approaching our institution. No one will give anything to the institution while it is in an uncertain state. I am in a position to know that, to realize that there are many who are willing to help the institution of the State if permanently located and established, and that its future growth is to some degree at least assured. The support of an educational institution to-day is not what it was a few years ago. Education is advancing every year and the university is an expensive institution. An agricultural college is not a whit less expensive and if these are united the expense thus saved will be sufficient to increase the efficiency of the institution very greatly. Mr. President and gentlemen, I thank you again most heartily.

Mr. KIESEL. I would like to ask the professor if he would be kind enough to give us his views of the metric system?

Mr. VARIAN. One thing at a time.

Mr. EVANS (Utah). I think we had not better mix that up. We had better go on with this.

Mr. HALLIDAY. One thing at a time.

Mr. JAMES. I would like to ask the gentleman a question, if this Convention will permit. I want to ask the professor if from his experience as a professor and his knowledge of locality throughout the world, he knows a place within the whole United States that has the advantages, from a scientific standpoint, as well as a central standpoint, for a great school that Salt Lake City has?

Mr. THURMAN. I object to that

question. I ask that the professor be not put in that embarrassing position. He has avoided it in his speech and it is a wrong to him.

Mr. TALMAGE. I have nothing to say on that. I simply desire to repeat that I have nothing to say as to the location. I urged before the Legislature at the last session that the question of union be discussed upon its merits, without any sectional feelings intervening, and I have only waived that in one instance, when certain statements were made regarding the location in the north that I thought misrepresented some facts connected with Salt Lake City.

Mr. JAMES. I want to state, Mr. President, just a few words. I have no personal preference for any locality. I have simply a particular desire that the best good shall be done for the greatest number. Now, there isn't anything that has come up before this Convention that I have been more deeply interested in than this school question, since we convened. However, I have refrained from saying anything, for the very reason that I realize there are those who are better able to talk to you and explain to you the necessities in this case than I am. But I must say—and I do not say it, sir, because I live in Salt Lake City, but I say it because my observations compel me to say it, that I never have had the privilege, I never have had the opportunity of witnessing any spot within the United States that is so advantageously situated for a great school as Salt Lake City. It has geological surroundings. It has attractions, it being right upon the great highway through this great nation where everybody must come if they pass from east to west. It is a point that has not only a national reputation, but is known all over the world. It has attractions which are equal if not superior to any place between the Missouri river and California, and that much I did want to say in the

interests of what I believe ought to be one of the greatest schools that this nation can possibly have within its confines, and that it should be established here in Salt Lake City.

Mr. HAMMOND. Mr. President, I am opposed, sir, to this substitute offered by the member from Grand County, although he is my son-in-law. He is a republican and I can forgive him, but he is off—plumb wrong. The idea of moving the university, as his substitute provides, to Cache County—why he may as well take it to the North Pole so far as San Juan could get any good from it. [Laughter.] I am astonished that a member from the south would make such a motion. Professor Kerr converted me the other day to the doctrine of union, and I have not in any manner departed from that position which I took then. Union first and union last and all the time of these school systems, and when it comes to location I leave Professor Kerr. I cannot follow him any longer. Salt Lake City, if we are going to locate it, is the place. Why, sir, we people in San Juan, when we pray, we turn our faces to the north—the great temple city, and I feel that Salt Lake is entitled to it by every consideration. It is the great city of wealth and renown and population, and beautiful location on the sides of the mountain. Then again, Mr. President, I feel that they need it. They are absolutely and hopelessly in debt, and it will help to stir up business enterprises here and to create a way by which I believe they will get out of debt sooner or later.

Mr. IVINS. I understand, gentlemen, from this substitute and the amendment that two propositions are now fairly before this Convention. First, the union of these two institutions of learning, the university of Utah and the agricultural college. My position in regard to that question has already been defined. Therefore, I shall not devote time to its consideration. I

am in favor of this union. The next important question is that of locality. If these two institutions are to be united, if this new State is to have one great institution of learning, shall it be located at Logan, in the extreme north of the Territory, or shall it be located at some other point? There are considerations, perhaps, in favor of both the substitute offered by the gentleman from Grand, and the amendment offered by the gentleman from Beaver. My own feelings lead me entirely to support the amendment to the substitute. I do not believe that it is best for this Territory that these two institutions united should be located in Cache County. If they are to be located at all, gentlemen, it seems to me that this valley in which the city of Salt Lake is situated is pre-eminently the most proper place for the location of an institution of learning of this character. In the first place here is the center of population of the whole Territory. An institution of this character of necessity must draw its support largely from Salt Lake County, if it is supported at all, and to my mind this is one question which should not be overlooked. From this city and from this county a large proportion of the support which shall be rendered to an institution of this character must of necessity come so far as population is concerned.

Again, in this city and county is situated a great proportion of the wealth of the Territory, and I apprehend if this institution is ever to become a great institution such as it is anticipated it will become, it must be made so largely from bequests from men of wealth. The point referred to by the gentleman from Salt Lake, Judge Goodwin, when this question was under consideration a few days ago, is one that ought not to be overlooked, and I apprehend that more bequests would be bestowed upon the institution if located here near the mass of those who are able to give than could possibly be the case should

it be located in the northern part of the Territory. Now, another question that is one of importance in connection with this matter is this, in this institution we expect that medicine will be taught, surgery will be taught, there will be a school of mines attached, civil engineering will be taught, and I want to ask you to stop for a moment and consider the advantages that are afforded in Salt Lake City, above those that can be afforded in any other city in the Territory, so far as these branches are concerned. Here are the hospitals, here are the places where students can get practical information, that cannot be obtained so far as medicine and surgery are concerned in any other place. Here are the great mills, here the mines are within easy access, where students can become practically acquainted with that industry. Here the electric works are situated, here are the great machine shops, in fact, gentlemen, here are all of the facilities necessary for the acquirement of knowledge in these branches to which I have referred, facilities that for a generation at least to come never can be had in Logan.

Another thing, Salt Lake City is the central city of this Territory; it is the great overland highway from the east to the west. Here professors will visit in passing to and fro. Here educators will come, and during their temporary stay is it not a fact opportunities will be afforded to the pupils of this institution to get the benefit of an occasional lecture, to get the benefit of their opinions, of their experience, which will not possibly be the case if they shall have to diverge from the regular course of travel and spend a day or two perhaps in going into an insulated neighborhood in order to make visits to this institution? It is no small matter, this to which I refer—no small matter, gentlemen, that these opportunities should be afforded. Again, this institution, if the two institutions are united, will become the pride of the people of this new

State. It is eminently proper that it should be located where tourists, where travelers, where men from other regions may easily have access to it, that its renown may go abroad through the reports that will be made by individuals of this character, which again can never be the case if it is located in an isolated region. From a financial standpoint, what will be the result? I do not know just what may be the value of those buildings and grounds in Logan, but I do know that we will lose in Salt Lake City ten acres of ground in the very heart of this town with valuable buildings, perhaps also concessions that have been made here upon the bench, and I am of the opinion that from a financial standpoint the loss will be much greater if interests in Salt Lake City are abandoned than will be the loss if interests in Logan, Cache County, are abandoned.

I contend that the climate in this valley is better adapted to agriculture, it is better adapted to the establishment of an institution of this kind, than is the climate further to the north. I maintain that that isolated point is not proper for the establishment of an institution that is to be the only institution of the character established in this State. Now, in opposition to that comes a sentiment. The agricultural college we say has already been established at Logan and it is unjust that we should take it up and move it away, thus depriving the people of the benefits we have derived from it. I want to call your attention to the fact that the university of Utah has been established in Salt Lake City, ever since the establishment of this Territory. I opine that it never was the design of those who established it and it is not the design of the people of Utah to-day that it shall be torn up and removed to an isolated point in this Territory. It is said that the moral influence surrounding the institution in Cache Valley would be so much better than the moral in-

fluence surrounding it in Salt Lake Valley, that this alone is sufficient reason why the change should be made to that point. There may be something in this argument. I believe there is, but as a rule students who attend the university of Utah will have acquired sufficient years and wisdom to take care of themselves. All things considered, I want to say here that I shall favor the amendment offered by the gentleman from Beaver. If there is to be a union of these two institutions, I shall vote for that union at Salt Lake City. That failing, I shall then vote for union at Logan because I believe union at Logan is better than nothing, but to my mind this is the point eminently fitted. There is no better. I do not believe in the whole world there is a point with surroundings better calculated to establish and successfully maintain an institution of this character than right here in Salt Lake Valley.

Mr. PIERCE. Mr. President, there are one or two facts that I desire to call the attention of the Convention to. The property upon which the university is now located, by figures which I obtained this morning from men who put conservative values upon property, is worth two hundred and fifty thousand dollars. It is a block in the heart of the city, and as has been stated by the previous speaker, if the union is at Logan, we will lose the entire benefit of that property. There is a condition in the deed. When the deed was first given to the university by the city for that block the block was to be the property of the university as long as it was used for university purposes. The last month—I think it was about the 13th day of March, the city of Salt Lake changed the conditions in that deed. They provided that that property or the proceeds thereof should be used for the university as long as the university remained in Salt Lake City, with a view of locating or so that the university proper could be located upon the Raw-

lins' site granted by the government. So that here is the proposition right square before us. If we locate the university upon the site in Fort Douglas, where it should be located, we have at once property worth two hundred and fifty thousand dollars to be converted into cash and to be used as a fund for the purpose of establishing houses, and dormitories, and whatever is necessary upon the Rawlins' site. It seems to me, with two hundred and fifty thousand dollars, that we can do an immense amount of work towards starting our university upon a proper footing, and that with the two hundred and fifty thousand dollars so granted to us by the city, we will place this university, as far as building is concerned, far ahead of the condition that the agricultural college at the present time is in, and in addition to that we have a large tract of land—sixty acres up there that is valuable in itself. And it seems to me that all of the arguments are in favor of locating the university, if it is united, in Salt Lake City. And another thing that I desire to call the attention of the Convention to is this, in regard to the university, that during the last year there was one endowment made to the university to the amount of sixty thousand dollars by the Salt Lake Literary and Scientific Association. I say, gentlemen, that if the university was moved to Logan, if it had been in Logan, we would not have received that endowment, and I think that the university should be in the center of population where men of wealth, men who are capable of endowing chairs in universities, are situated, so that their attention shall be immediately brought to the institution and that they can grow up with the surroundings and in that way have a love for the institution, which they could not have if they were located in an isolated part of the Territory where there is not the center of wealth as there is in this city. There is a time soon coming when I hope that

the university of Utah or the agricultural college, if they are united together, will be able to maintain themselves wholly upon endowments and the land grants, and I believe the time is not far distant, but, gentlemen, we must cultivate a spirit in favor of education and we must build up everything tending toward that, and the location in the center of the population of the State of Utah is where we want the university. And another thing, if you locate the university at Logan, then Salt Lake City, Salt Lake City, being the center of population, instead of our Utah boys going to Logan to the university, they will go to eastern colleges and western colleges, and the university would not have the advantage that it would have if it was located in Salt Lake City; and I think, gentlemen, that every argument that has been made or that can be made is in favor of the location here in Salt Lake City.

Mr. THATCHER. Are you quite sure, Mr. Pierce, that the Literary and Scientific Society which contributed sixty thousand dollars to the university would not have done so had it been located elsewhere?

Mr. PIERCE. That is my moral conclusion, sir. I say, I am not quite sure, but I say that here is the proposition that I make, Mr. Thatcher, that wealthy citizens, those who endow universities—the most wealthy citizens, as I believe, reside in the center of population everywhere, wherever you go, and their attention must be immediately called to the conditions, to the needs and necessities, before they endow, so that being right upon the ground we are more likely to get endowments if it is located in Salt Lake City than we could if it was located in an isolated part of the Territory.

Mr. THATCHER. I just simply wanted to say that as an officer of the Literary and Scientific Society, I voted with my colleagues for this sixty thousand dollars to go the university, and I

do not think the location would have had any effect upon my mind.

Mr. PIERCE. That may be so with you, because you, perhaps, desired it elsewhere.

Mr. THURMAN. Mr. President, I have struggled as hard as I have been able to keep this question out of this Convention. I do not believe it has any business here, I mean as far as location is concerned, and at the proper time in this discussion I shall offer an amendment by which the question of union may be determined by this Convention and the question of location will be left to the Legislature, where it belongs. I understand that such an amendment now would be out of order. In taking this position, Mr. President, I trust that I am keeping myself consistent with the positions that I have taken heretofore upon this question. I am opposed to both of the proposed amendments. I place my reasons upon the same ground that I placed them yesterday. Either of these proposed amendments, if adopted, would prevent the Legislature through all coming time from establishing any kind of a branch or department of the university in any other part of the State. To that I was opposed yesterday, and I had gentlemen yesterday standing shoulder to shoulder with me, who voted with me on that proposition, who to-day will abandon me in this Convention and vote on the other side. I stand there to-day, and I say, gentlemen, if you are wise men you will come to that position yet. In deference to these professors—Professor Kerr and President Talmage, and all the educators whose opinions we have had the advantage of, I shall yield—I won't say my judgment, for I never had a decisive judgment on the question of union until I heard them, but I am now in favor of union, if it can be accomplished without too great a sacrifice. I concede that we ought to make some sacrifice for the sake of union, but I say the question of location ought to be left to the Legisla-

ture of the State, and from what I see of men in this Convention and what I know of their opinions and their indecisions and their doubts and their fears on this question, I say it ought to be a question for the Legislature, and it ought to be made a question in the campaign, and let the people all over the Territory of Utah know that this thing is to be decided by the Legislature, and let men come here instructed what to do, and not take up longer the time of this Convention. Gentlemen, I intend to vote against both of these amendments and I propose to offer one on the lines that I have suggested.

Mr. SQUIRES. Mr. President, in view of the great importance of this subject, and along the line indicated by Mr. Thurman, would it not be possible for us—it would have to be, I suppose by unanimous consent—to vote upon the question of union, disassociated from the question of location, so that the prejudices of the delegates here would not enter into the question of union? If it could be possible, I would like to have the consent of the Convention to a vote squarely upon the question of union first, and then if it is decided that we shall unite these two institutions, let us discuss the question of location. I ask unanimous consent to have a vote taken first upon the question of union or no union.

Mr. HART. Mr. President, I object to that; it cannot be considered, in an abstract sense. It is not a question of theory but it is a condition.

Mr. CANNON. Mr. President and gentlemen of the Convention, I am in favor of union; if I cannot get union at Salt Lake City, I shall vote for union at Logan. I believe that the interests of the institutions demand that union should take place whether we decide the location or not; it would be a different matter so far as I am concerned; had Mr. Thurman's substitute or amendment appeared, I should have voted to leave that to the Legislature,

but I would like to have settled at this time the question of union, and as the question stands before us, I favor the amendment of the gentleman from Beaver County, providing that the location shall be at Salt Lake City. I have in my hand a copy of the bill which granted to the people of Utah the site for a university. It passed the house of representatives March 26th, 1894.

Mr. JAMES. May I interrupt the gentleman for a moment? He is pretty well acquainted with the values of land in that locality. I would like to ask what he considers that land worth?

Mr. CANNON. I will answer that question in the course of my remarks. This tract of land, gentlemen, as has been stated by some of the other speakers, is a very valuable one. It comprises 132 rods frontage, overlooking the city of Salt Lake, situated immediately upon the brow of the hill east of us, and could not be excelled any place in the world so far as the location is concerned. It has been urged as an objection to it by some of our friends from Logan and other parts that there is no water with which to conduct their experiments in agriculture. I would call attention to the fact that Parley's canyon conduit brings water from Parley's canyon, one of the largest streams in the valley, and conducts it in pipes above this and at a sufficient elevation to water the entire tract. The water coming from Parley's canyon is largely in excess of the quantity which was used formerly by the residents of Salt Lake City, to water their entire city. And it was obtained principally by an exchange of the waters of Jordan river made with the farmers of Sugarhouse and Farmers precincts in this county. Many hundreds of acres of land well watered by the waters which come to us through this canyon conduit formerly were watered and that water is now utilized by the citizens of Salt Lake. It could, should the city of Salt Lake see fit to,

grant the water, and I have no doubt that it would be used in utilizing that entire tract with as great an advantage as is obtained at Logan upon that point. I have heard the objection raised that the soil is not suited there. I would state, gentlemen, that some of the finest soil that we have in Utah Territory is found upon this bench immediately surrounding Salt Lake City. Some of the finest grapes that we produce and everything of this character can be found there. You have only to go to the fruitful gardens of our citizens in the upper bench, in what is known as the dry district, to see the character of soil that exists there. In addition to that the climate here is more suitable than it possibly could be in the location proposed at Logan.

I have in my hand the report of the United States department of agriculture and weather bureau, which shows the temperature in the month of December, 1894, in both stations, showing the great variation that exists. From this I find that the mean temperature at Salt Lake City for that month was 31.4 degrees, the mean temperature was 22 degrees at Logan, the difference in temperature was 9.4 degrees. It is well known to the people of Utah Territory, and I need not discuss it, that Logan is not so situated that you can conduct with the greatest advantages the experiments that should be conducted for the benefit of people of Utah in an agricultural line. The people of Davis County do not get the benefits that would result, and the people of all the mountain valleys and counties do not, that would result from the establishment of agricultural college in a location where they do not have to raise onions under the cover of glass; from a location where they do not have to do that which they do in Logan, and it is no disrespect to Logan that I say that which I do. I have been informed by some of the gentlemen who visited Logan recently, one of whom was a

professional gardener, that he made an examination of shrubs and trees that are growing upon the agricultural grounds there, and that he found the shrubs and trees which had been planted for a certain number of years, were only about one-half the growth that the same character of trees would have in valleys similar to Utah County, Davis County, and Salt Lake County, and I submit that it is not fair to the people of Utah that the main agricultural college should be located in a climate of that character. As I understand the gentleman, a university is a collection of colleges, and in this line there should probably be connected with the university a school of mines. We have in Salt Lake City advantages that could not possibly be had in Logan in the way of establishing a school of mines. The ore comes from all parts of the Territory, not only from Utah but from the surrounding states and territories, is brought in here and handled by our smelters. Samples can be secured and the people who are studying the subject of mining—and in a school of mines they would have immense advantage in that way. The same would be true of the school of metallurgy. Here, for fifteen cents, students can get upon the cars and go and see the practical operation of our smelters, as they treat the various ores which are handled by them and see the principles which they study in school applied in a practical way. We have had gentlemen upon this floor say that they believed in practical education. We have had men say that people who are educated in Salt Lake City are not good for anything when they go back to any other place, but there are men in Salt Lake City—boys who come from all parts of the Territory who come here with the special purpose of being trained in manual training, learning different kinds of trades, and no place in Utah will present the advantages for this kind of training that Salt Lake City

will. If you want a practical education, you should place your institution at a point where that practical training can be given.

In the same way, if we have a school of medicine, you must have your school of medicine so located that they can visit the hospitals and see there the practical operations that are performed. You do not want to train your doctor so that he has read how to treat a limb that needs to be set, but you want him trained that he has seen those limbs set where they are broken, that he has seen the knife used where an incision is necessary to be made, and that he knows practically how to do that which is done. If you go to Logan, I submit that you have no hospitals there, that the climate is such that invalids and others will not seek it for the purpose of being treated, and that you will not have the advantages of a school of medicine that you would have in Salt Lake City. Again, we should have our college of dentistry. There are not people enough in Cache County to supply a good class of clinics in dental operations. You should be located in a place where the students can take the advantage of practising upon a large population, willing to submit themselves at the low price that students usually charge, for the gold they put in their teeth. Then we come to the subject of the college of law. Who is there who has a large practice willing to leave his law practice and to devote a day coming and going to and from Logan, in order that he might appear before a class there and lecture upon some subject upon which he is a specialist. We have, in Salt Lake City, a most eminent bar. Its members are noted throughout the country and many of them would take pride and pleasure in lecturing before a law school were it in such a place that they could leave their business for a few hours or for a few minutes and drive to the location, deliver their

lecture, and return to their business. We have a great many lawyers. I do not need to instance them, because, besides those we have upon this floor we have Judge Sutherland, who is an eminent man in his line. We have Mr. Rawlins, who was our late delegate to Congress, who has written text books in some lines upon which he is noted, and we have countless others who would not and could not afford to give their time to go to Logan, but who would practically give, free of charge, their services for the university located in Salt Lake City. In addition to that I desire to call your attention to another advantage that there would be. The Deseret Museum, which is situated here and which contains a large collection for the use of students, has been placed free of charge at the disposal of students of the university, those who are studying geology, and other sciences of this character, and were it removed from this city, they would not have that advantage. But it is stated that in Salt Lake City it is not moral, the atmosphere is not morally good and that they should not send their students to Salt Lake City; that they are afraid that they would be contaminated. I regret that vice exists upon the earth, I regret that it exists in Salt Lake City, but I submit, gentlemen, that you cannot, by locality, make men moral. People in Logan may be good and Logan may be a good site for morality, but I submit that you will find in Logan as in other places immorality, and that if a large college is established there vice will follow in its wake, as it has done in other places and in other cities. You must regulate your institution in such a way that you can carefully shield the innocent who attend your college or university. You must teach them that they must resist temptation, not that they must yield to it, because I claim that true virtue consists, not in having no opportunity to commit a crime, but

that it consists in doing that which is right when temptation is placed before you. I submit that if bad influences exist in Salt Lake City, good influences also exist, and I believe that those who have taught school here—their testimony will bear me out when I say that there is no more tendency to drunkenness, no more tendency to vice of various kinds among the students of Salt Lake City, and among those who attend the university here, than are found in cities of smaller kinds where there are to a certain extent vices and temptation.

The question has been raised as to the price of board, and it is claimed that in Logan the advantages of board will more than offset the expense of traveling so far by rail. I desire, upon this point, to call your attention to the fact that many of the students who would attend would be right at their own homes in Salt Lake City. Think of that for a moment, gentlemen. We have in Salt Lake City to-day over twelve thousand school children. We have in Salt Lake County over eighteen thousand school children, Salt Lake City and Salt Lake County combined comprise more than one-fourth of the entire school population of the Territory of Utah, and I claim that in the higher grades the proportion is greater than taking the entire average. I claim that there are more boys and girls prepared to enter upon a university course in proportion to the population in Salt Lake City and in Salt Lake County than any other city or county in the Territory, and I believe the statistics will bear that out. We have an attendance at the high school in this city at the present time of over four hundred, an increase in the past year of over one hundred and fifty, and when they graduate from that high school (its merits have been described frequently to you) they are admitted to the university of California, without an examination. They are admitted to other universities without an examina-

tion, the grade of that high school is so high in that respect. Now, I claim that it is not true that board is cheaper in Logan than it is in Salt Lake City, when the quality of the food is considered and the kind that is partaken of. [Laughter.] I claim that you can get just as good food and as cheap in Salt Lake City as you can in Logan. I have in my hand a letter from the secretary of the faculty of the university which bears that out. There is one other thing. I desire to call your attention to the close proximity of Salt Lake City to a very populous district. We have around us on the north Davis County with a school population in 1893, of 2,505; Morgan County with 652, just over the mountains on the northeast; Summit County, 2,622; Tooele County, 1,268; Utah County, outside of Provo, with 7,364; and Provo itself with 1,823; Wasatch County, right over to the southeast 1,441; Weber County, outside of Ogden, 3,087; and Ogden City, 3,885; a total within a very small radius of Salt Lake City of 41,847, much more than half of the school population of Utah Territory. I call attention to that fact, gentlemen, and that this is naturally the center, and the place for the location of your university. In addition to this, I desire to call your attention to the fact that nearly every family in Utah has either a relative or an intimate acquaintance in Salt Lake City, to whom they can confide their children if they desire to send them. Go to the outside counties and ask where their relatives principally live and you will find that nearly every family, if we go from San Juan to Rich County in the north, have representatives and friends in Salt Lake City, to whom they can entrust their children, if they desire so to do.

The question has been brought up about the buildings, and upon this subject I made an investigation, and I find to-day they can build buildings similar to those at Logan at a reduction of from twenty-five to fifty per cent. from

what they were built for at the time when they were built. I have in my hand, and were time not too precious, I would read to you an estimate from the leading builders and contractors of Salt Lake City, covering everything from the stone of the foundation to the paint that would cover the buildings, and the glass within them.

Mr. JAMES. The gentleman did not answer my question.

Mr. CANNON. The question, I believe, was as to the value of the site that has been offered by Congress for a university location. I have made inquiries among different real estate agents in Salt Lake City and those most intimate with the matter, and I found that the lowest estimate offered was two hundred thousand dollars as the value of the ground, and that it ranged from that to three hundred thousand dollars as the value of the site that was offered by Congress.

Mr. KERR. In case the university is not located there, or in case it is located there, is it not true that that site is absolutely unmarketable. That it has a value only as the use for a site?

Mr. CANNON. The site has a market value independent of that which would attach to the university. It could be sold in ordinary times for the prices named.

Mr. KERR. Could it be sold at all?

Mr. CANNON. This cannot be sold at all without the consent of Congress. It belongs to the government.

Mr. VARIAN. Mr. President, I regret that this discussion has been precipitated. I think sober reflection will convince the members of this Convention that the proposition and the discussion is out of place in the deliberations of a Constitutional Convention. The location of State institutions such as these is purely one of legislative concern. The Legislature should not be restricted permanently in the disposition and location of institutions of learning or of other institutions connected with the

administration of the State government, such as prisons and reform schools. No such question as is propounded here for our discussion was presented or considered by the people, nor did anybody dream that a matter of this kind would be precipitated, having the result and the only result, if it shall be carried out to its logical conclusion, of embittering and antagonizing sections of the Territory, on the very eve of the vote to be taken upon the ratification of this Constitution, against each other. It is impossible in the very nature of things that this matter can be pursued further to a definite ending without such results. If you accomplish the union of these institutions permanently by this declaration in your organic law, necessarily and logically you will dispose of the question by fixing the location. If you remove from Logan the agricultural college and fix it permanently at any other point, you will disturb and antagonize and embitter those people to an extent which cannot be appreciated. If you act in the other way the same results will follow. You never knew of a more disturbing cause in politics in the relations of different sections of people in one commonwealth towards each other than interference of the kind indicated with existing institutions—with even county seats, and you cannot hope to escape the consequences which always follow such interference. I submit that none of these institutions ought to be fixed permanently by this Convention. The people did not expect it; it is taking a snap judgment, upon this and upon those directly interested the different localities. It is assuming a legislative fact which is unnecessary and uncalled for, and which ought not to be intruded upon this Convention. Already I can see and feel indications of the coming storm in this Convention. Already I can feel the bitterness in advance, which is being instilled into the minds of some of our delegates on the

floor, and that is bound to go on and grow, and every man on this floor knows it. It cannot help but do so. The arguments that have been presented here, able and instructive and interesting as they have been and are, are in my judgment out of place here.

I am not prepared to vote for a union of these institutions in this Constitution. If I am forced to vote for a union, naturally you may expect me because of circumstances, as well as because of my convictions, to vote to place the institution, as united, at the city of my home and residence. The same impulses that will move me will move others like me on this floor, as they move men under all circumstances in such conditions. But I am opposed to doing anything more with this question here than to leave it open as it is. Let it become a matter of legislative concern. Let it be disposed of by the people through their representatives, when they shall be called upon to discuss the question, in accordance with the wants and necessities of the people at the time. Let us not put into this Constitution something, which I tell you, gentlemen of this Convention, in my judgment, may result in its defeat at the polls next November. Are we going to invite—absolutely invite every antagonism, every feeling of hostility that may be engendered against this Constitution, so that united, perchance, they may be able to defeat it? As I have taken occasion to say once before upon this floor, I did not come here to play politically or otherwise in constitution making. I came not here with any secret reservation that when we have gotten through I shall go forth and attempt, in so far as I may be permitted to do so, to defeat it. I desire to have this Constitution carry and settle once and forever these questions that have been agitating us for three or four years, and I deprecate the dragging in, unnecessarily, into this question a matter of this kind which cannot but help build up a large

and hostile element who shall be in opposition to the ratification of this Constitution. And why should we? Why are we called upon to do it? Why not leave every institution of the State just as it is, just as it always has been, subject to the control of the Legislature, who will presumably act in obedience to the demands and interests of the people.

In that view of the case, sir, it seems to me that it is just simply taking up time unnecessarily to discuss the propriety or the advantage of union or non-union. We take these institutions as we find them. We are not sent here to enact a code of laws governing institutions of learning, nor to permanently and irrevocably, as it were, dispose of the question which was not and has not been considered by this people. We were supposed to take everything, so far as the State institutions were concerned, and their locations, as they are found and to frame a Constitution which should limit only the powers of the Legislature, not entirely, but should contain such restrictions and those only as should be necessary to preserve the freedom and the quality of the people, and that is all, and when we have accomplished that, we have done all that we were sent here to do, and the people still retain the power as they have it now, and have had it heretofore, to dispose of these questions as in their judgment they shall see fit. I would like to see this substitute that is suggested by Mr. Thurman. I do not know of course how it shall be framed, but the underlying thought of it meets with my approbation and I would like to see it adopted and incorporated in this Constitution, and in that view I trust that this substitute, however it shall be amended, shall be voted down. I submit, Mr. President, that if gentlemen will stop just for a moment and see the signs of this Convention they need not go any farther. They will appreciate the solemnity of this question as it shall and will affect the people in the

different sections whose interests are at stake here, and they will pause long before they undertake such a radical change as this—the more radical because it is proposed to be made permanent in the organic law. I say that the university of Utah and the agricultural college can wait—wait as the people of this State must wait until the people shall be enabled to take care of them as they shall be taken care of. They are not alone to be considered in this question. The grave responsibilities, the serious expenses of the new State government are taxing the judgments of those who are called upon to investigate and consider them. Let them wait. Go along as best you can. You may safely rely upon the honor and good faith of the people by whose suffrages they were established in the future, as occasion may serve to perpetuate and maintain them in accordance with the dignity they have and should have. I ask you now to stop and think of this question. Do not let it degenerate into a log rolling proposition, and that is where you are coming to, “if you will vote for my place I will vote for yours.” When you dispose of this, you will have this other matter coming up between the other State institutions or you may have, and you will not be dealing with this question with the dignity and with the propriety that it should be dealt with. I submit to vote down this amendment or proposition as a whole and leave the matter open to the Legislature as it ought to be without any mandate or without any restriction except that until otherwise provided by law, these separate institutions shall remain as now existing.

Mr. CHIDESTER. Mr. President, the thoughts expressed by Mr. Thurman and Mr. Varian are my own. [Laughter and applause]. They were not my own thoughts; I had them before they expressed them. [Laughter.]

Mr. THURMAN. I did not suppose you were going to give us away.

Mr. CHIDESTER. I believe that the question of location should not be settled by this Convention. I have been convinced that the question of union is one of necessity and that that might properly be settled by this Convention, but I believe that the advocates of this question are forcing upon this Convention the necessity of settling a question that should be left to the Legislature. I believe it for this reason, that it is reasonable to presume that if we say that we are going to unite these two institutions and put them at Logan, the people of this county are going to vote against the Constitution. I believe it is inviting that hostility that should not be invited against the ratification of this Constitution. On the other hand, I believe that if we say that it is going to be located at Salt Lake City, we invite hostility against it from the north. I believe that that is not wise. Therefore, I believe that it should be left to the Legislature. When I visited Logan I was willing to say, and believed that it was right, that we should leave the agricultural college where it now stands, but when we come back here and we hear the arguments produced, it convinces me, at least, that they should be united. That, however, I would be willing to leave, but I am not willing to take up and grapple with all these questions that come along to satisfy any locality in the south or in the north. I say we are not sent here for that purpose. Our purpose should be to form a Constitution and leave these vexed questions to be settled by the people when they thoroughly understand them. Let them have time to think them over. These questions have not been talked over before we came here that I know of. These men who have been in the Legislature in years past have some understanding of the matter, but so far as I am concerned now, if you force me to vote upon this question, if you will not separate this question so that

we can vote upon it this way, I shall not vote to move this institution away from Salt Lake City. I shall never vote to move it to Logan. Now, I say, do not force us to vote upon the question in the way that is sought to do to-day, but separate this question and let us vote upon a union of the two institutions. If you want to go that far, all right. I will join hands with you. I am not willing to vote if I can get around it, to locate this any place. Leave that for the future Legislature. And, gentlemen, before you do it, think upon it seriously and do not force this matter upon us at once. Let us leave that and the people can talk it over and they will send men here that will be instructed upon this matter, and I say this that it will do no harm to leave this matter, because if we were to vote to locate it to-day, it could not be done immediately, so that the next Legislature can settle this matter and locate it, and no damage will be done.

Mr. VARIAN. I want to ask the gentleman a question. If it is desirable to test the sense of this Convention upon the question of union, why not make a motion to indefinitely postpone the substitute and the amendments offered, and if that should be carried that would settle the question of union. If it should not be carried, it would determine the sense of the house the other way, and we would go on with the amendment.

Mr. CHIDESTER. That is just exactly what I would like to see done. [Laughter.]

Mr. BUTTON. Mr. President, haven't we a right to ask a division of that question, when it is put?

The PRESIDENT. Yes, sir.

Mr. CHIDESTER. Well, I ask for it.

Mr. THATCHER. Mr. President and gentlemen, before a vote is called upon this proposition, I desire to speak briefly upon the question, and while now it rests on my mind I wish to call the attention of this honorable body to the

fact that at least one Legislature has dealt with this question and that body treated the question as you treated it, on Saturday evening, and on yesterday. That is to say, they decided that these two institutions should remain apart. That having been thus tested, why so frequent reference to what they shall do in the future? Why not decide here and now this important question, in order to have a sound foundation upon which to build? The history of this question is about as follows: Some of the professors of the university of Utah canvassed this question pretty nearly two years ago by writing letters to every person in this Territory supposed to be interested in the question of education, and those letters clearly showed that they then advocated union as they now advocate union, so that they have not changed upon this proposition, not even after the Legislature in its wisdom decided that they ought to remain apart. That same question is brought up before this body, not by the people of the north. As I observed here on Saturday, the agricultural college was located at Logan by the assistance of the majority of Salt Lake delegation in that Legislature, and yet, because the people of the north now ask that that institution be perpetuated there, they are put in the awkward light that they are carrying before this body of men a squabble-hunting for the public teat from which to draw support. Well, now, if there is a feeling of that kind in the north, it is not indigenous to that part of the country. It must have been imported from some other part of the Territory. I need not refer to what part. It may be safely said at least that the people of the north believe that it is better to give than to receive, for it blesses him who gives and him who receives. I am sorry that the gentleman on my left has begun, for no one from Logan or from Cache Valley would think for one moment to argue as to location against Salt Lake City.

I think it is the views of the majority perhaps of this body that she ought not only to have the university and the agricultural college, but also the insane asylum and the reform school.

Mr. CREER. And the capitol building?

Mr. THATCHER. And she ought to have the population of the Territory, and no doubt would have, if our people who work on the farms could only move their farms here. Now, the real facts are, that if we could get together all in one county and develop that, perhaps it would be better for us. Who, that has had experience in sending their children abroad, does not know that when a student is sent away from home, and, therefore, is separated from his companions in amusement, he makes more progress in three years than he would make at home in four? If any one will take the pains to examine the records of the university here, and take the number of students who have attended that institution during the past forty-five years, you will find that the predominance as to numbers are from Salt Lake, but you will not find that the graduating classes are on that side. It is just so at Logan. It is the students that come from abroad, that leave the horses and the sleighs, and the theaters, and the parties, and the amusements, behind them, and come away from home for the purpose of securing an education that may be of advantage to them. Thus, those who have graduated in the colleges north have been from the poor families, and not from the wealthy, so that it is an advantage to send students abroad. I repudiate the idea that the north comes here asking this Territory for anything. I have studied economics enough to know that the populous centers always want to become to a state what Paris is to France. I comprehend fully that these large capital cities are like the eastern watershed, all draining into the

Missouri, and thence into the Mississippi, and thence into the Gulf of Mexico. We in the country understand that perfectly well; but we also understand that cities could not prosper unless there were country people who followed the plow, and who followed, therefore, agricultural pursuits. I, therefore, gentlemen of the Convention, stand just where I did Saturday, although, heretofore, I thought myself a strong unionist, but the more I hear this question discussed, the more I am convinced that these institutions ought to be apart and not joined, and I shall vote against this proposition to carry the university to Logan. I do not think it belongs there at all. I think it belongs where it is, and that the agricultural college belongs just where it is. And I disclaim this thought, too, that the people of the north have desired the university to be taken there, and I repudiate any such insinuation. It never has come from the people.

If, on the other hand, this body of men think it better to unite them and bring them here to Salt Lake, well and good, and I do not think it will affect very materially the vote on the Constitution. I do not think the people of the north are made of that kind of stuff at all, and it is possible that if you leave those buildings there, we could refer to them as the monument of the folly of the past, and perhaps we may invite our neighbor on the north to come down and occupy them, as they have no university building. I think likely they would be glad to join with us and build another institution there. Idaho is in our condition—very poor, and I refer to this matter, because the agricultural college has students from Idaho, from Montana, from Wyoming, and when you come to consider that fact, then it is centrally located, and you, gentlemen, know how far Logan is from Salt Lake—three hours. The idea that we could not take minerals from here to Logan and thus test them,

that is no argument to me. Just one word on the water question; if we had a million dollars' worth of buildings on this bench, where is the guaranty of the water referred to? I remember that they wanted us to build the sugar factory up on the dry bench, but we thought we had better have an assured thing than a promise, and if I have read correctly, the chief question before the city council the other evening was how to increase the water supply of this city, and I do not think my memory fails me, when I refer back two or three years ago and see the lawns and the trees of this city burning up for want of water. You can remove the university to Logan without cost materially, if you so choose, and the agricultural college, so far as buildings are concerned, can take care of it without any effort whatever. Can you remove the college to Salt Lake City and take care of it? That is the question. One more proposition; thirty years ago I voted for an appropriation for the university, and I challenge this proposition before this honorable body of men, and while I am connected with the university, and as I stated before, it has my sympathy, I stand without any hesitancy in this declaration, that the university, backed up by all this population referred to by the speaker here, Mr. Cannon, does not show the progress that the agricultural college shows. In three years there has been built up in that north country a love of education that has not been built up here in ten years. You may have your capitol building on the hill, and your penitentiary on the left, and your fair buildings here, and we will contribute with our trade to keep those institutions going, we will maintain the friendliest possible relation with the city in which we also have a pride, because the city of Salt Lake is a part of Utah Territory, but, gentlemen, you in Salt Lake City and the surrounding counties here, in the sustaining of that university, have not testified your affection for education as

the people of the north have done. It takes more than a legislative appropriation to build a school. It takes more than congressional grants to make a college or a university. You must have the people in that vicinity in full sympathy with it, working for it, and that is the history of the success of the agricultural college and what it has gained in three years.

I desire, while on my feet, to correct a statement made here the other day in reference to the attendance of the college now. I was appealed to as to the numbers that attended that school during the winter. Professor Paul tells me that the registered number was 357; I stated 360; I was out three. It was said that the present attendance was 145. He stated to me when I last saw him on Saturday that the present attendance is 285. Now, gentlemen, I do not think that the Legislature should be left to settle this question, but let this body settle it. I shall vote just as I voted on Saturday, for separation. Then, I would like to see the college established at Logan, so that the people who are working for it may continue to do so. If you leave it in doubt to be made a football by legislatures, as they change their political complexion, I fear that you will do one of the educational institutions of this Territory, if not two, very great damage, and whatever may be said of the capitol building, or of the penitentiary, or of the reform school or other State institutions, at least if we can, let us separate these two educational institutions from politics, and build them upon a foundation that we at least can refer to it with pride, if we may not make them compete in a few years with the eastern colleges. I do not think that the students from Utah will graduate in medicine or in law for a quarter of a century in Utah. If we had millions of money, it would not accomplish that. It takes an age. I can tell you that there are no schools in the United States

that will satisfy some of the boys even now. The desire to go to college and they mean to go to the college, and they not only go to Harvard and Cornell, but they go to Berlin and to Oxford and Cambridge. These are my sentiments, and whatever this body decides to do, unite or separate, let us settle this question. I thank you, gentlemen. [Applause.]

Mr. GOODWIN. Mr. President, I think when we consider the character of the last gentleman who has spoken and the intensity of feeling which he displayed all the more by his efforts to repress it, it ought to be a sign to us that we are in rather deep water, notwithstanding the intimation that has been thrown out that this place is more or less short of water. I only want to ask a question. The progress of the university in this city has been for the last few years referred to and the charge has been made direct, that this city has made no such a demonstration in favor of education as has been made in the north. The gentleman is laboring under a mistake. We have done more for education in this city in the last five years than has been done in all the outside counties in this Territory for the last forty-seven years, and the reason the university has not increased and improved and attained that eminence that it ought to is simply because the common schools and the high schools were neglected and the students that went to the university were not fit to be in the university.

Mr. THATCHER. Will the judge allow me to correct him on that point?

Mr. GOODWIN. Certainly.

Mr. THATCHER. I did not intend to refer in any manner to the district schools, but simply to these higher institutions, the agricultural college and the university.

Mr. GOODWIN. I understand, Mr. Thatcher, and that is why I am saying that this year there will be sixty graduates from our high school, next year

over a hundred, three years hence, there will be three hundred, and when those young men and young women get into the university, then you will hear something; simply because they will come prepared to take a university course. Only one more thing that I want to call your attention to. Boys will go from here and they will go from Logan, and they will go from the south to eastern and western colleges. They ought to, if their parents are able to send them, because all that a boy learns in school is only a little of what he knows in this world. The east is filled with educated men who are educated idiots. They draw a little horizon of their own around them and believe that the state of Massachusetts, or the state of Connecticut, or the state of Rhode Island, is the very end of the earth, and that a man that is born and reared outside of that is so unfortunate that he will never get over it, in all his life. They ought to be forced as soon as they graduate, if not before, to be turned into the west to rustle. And so I approve of the boys here going east for education, and that spirit is growing all over the east, and men of the east are thinking it will be better to send their sons west, that outside of the books they can learn the character of their fellow citizens in other cities.

That is why the university ought to be in this city, because Salt Lake City is better known east than Logan. It is probably because the bad is always more notorious than the good. There are people east that consider the climate and the other advantages of this region, who would be glad to send them here to be educated. They won't send them to Logan. Now, we hear that this city is all right, but it has to be supported by the country outside. That is, the people have to raise crops. That is not quite according to the standard of what this Convention ought to be. The man that works is the man that is entitled to respect, and

it does not matter whether he is behind the plow or wields the pick, or for that matter, if he is engaged in making something that the man that follows the plow and that wields the pick needs, and if the effort is an effort of the brain, that is all the more honorable, because men that work their brains wear out sooner than those who simply work their bodies. But as to local pride in the matter, that ought to be waived. We ought not to do anything here that will create friction. I believe that this city, if let alone, will itself, through the natural generosity and public spirit of its people and the support which shall naturally come to it from the outside, build up here in course of time a magnificent university, and nothing but time will ever complete a university. When our high schools will begin to turn out their graduates we will take care of the university and stop all friction and all feeling. I move the indefinite postponement of both the amendment and the original motion.

Mr. VAN HORNE. Mr. President, I think that we should consider with some care the question of the indefinite postponement of these motions. I think we should consider very carefully the question of whether the good of our educational institutions is to be advanced by continued agitation, with regard to where they are located or to be located. I do not believe that it is in the interest of higher education in Utah that the institutions of higher education should have no local habitation or name. I believe that the sooner we determine—the people of our Territory determine where our institutions of learning shall be located, the sooner will begin that growth of higher education which we all desire. For that reason, I intend to oppose the indefinite postponement of this question. Gentlemen, it seems to me, without studying the question of the location of the university, one very important consideration has been left out, and that

consideration is this, the reason why there has not been university growth has been indicated by the gentleman from Salt Lake. There was not the material to enter the university courses. You all know what the legislation of our Territory has been. It has provided for sending from different counties of the Territory students to the university, and part of whose expenses at least should be borne from the territorial treasury. Unfortunately the system of schools in our Territory has been such that under such an arrangement as that, we found that they were scarcely able to enter a properly graded grammar school.

It was the discussion of such matters as that that led the educators of this town into the belief and the firm conviction that we should establish a system of graded schools here continuing on up into the high school, and making students of the high school so far advanced in learning that upon their graduation from the high school, they could become proper material for a university course. Matters of that kind take time, and the time is just ripe for us to have classes in a university who are competent to enter upon a university course. Now, gentlemen, the thing, as it seems to me, that has been omitted in this discussion is this, that as this high school rolls out this year sixty, next year a hundred, the year after that two hundred, the year after that three hundred graduates, who are ready to enter upon a university course, you must have a university for them in some way, and if the Territory does not provide it there will be a sectarian university of some kind started here to give the higher learning to those very pupils from our high schools. Gentlemen say that men should be sent away for their higher learning. Yes, when they can be sent away, by all manner of means. Interchange of citizens between one state and another—that that means money—that means re-

sources on the part of those who are studying that not all of us can have. And gentlemen, the history of the great institutions, the history of Harvard, of Yale, and of Cornell, if you care to look at their catalogues, will show that they educate the people at their doors as their main work, and as their incidental work, their great character as institutions of learning bring to them from all over the country this, that, and the other man who is able to leave his home for the purpose of education.

Now, gentlemen, if we move away from the center of population, if we move from the center that furnishes the material—the students who can enter upon a university course, the university itself, and compel them to move away from home, in order to attend the university, they will attend, not the university of Utah, but they will attend Harvard, or Yale, or Cornell, or Columbia, or some other college, but in doing that you will say to them, "Gentlemen, you must have at your command three, four, five, six, seven, eight hundred dollars a year in order to enter upon this university course and attain the education that you desire." Do we want to say to our people of Utah, "We will not furnish you in the most convenient place for your attendance a university that will teach you what you need at your homes, but will force you to move away and put upon you the inconvenience of moving away from your home to a university in Utah, or moving away from your home to a university outside of the boundaries of our State?" It seems to me such a policy as that would be futile and absurd. There are other questions with regard to location that it seems to me ought to be considered and many of them have been mentioned.

I call attention to one other, that the libraries of the Territory are in this city; aside from the professional and technical libraries here, there is a public library, containing some eight or ten

thousand volumes, many books of reference that are rare and costly, that is completely at the use of the students of the university here. That is the universal custom in all centers of learning, that whatever libraries there may be, are thrown open to the students of the universities and colleges. Here we have, what can be thrown open to them—another reason why the university itself should never be moved from this city. If, gentlemen, we had pursued throughout the course of our work here in this Convention the uniform policy of leaving to the Legislature all that might properly be left to it, and attempting in no wise to interfere with their action, there might be greater weight in the argument that this is a legislative question and should be left to the Legislature, but I leave it to the candor of the delegates of this Convention if that has been the course pursued, and if it has not been the course pursued here, why on this question? This is one of agitation, it is one, as they say, that may degenerate into log rolling in this Convention; where we cannot trust the Legislature in other affairs, why should we trust them with the log rolling question of location of public institutions? Do gentlemen think a continued agitation before legislative bodies of this question of the location of an institution here or an institution there, or a consolidation here or a consolidation there, or a separation of the different departments of learning into branches at one or the other place, is a desirable thing to perpetuate in this new State of Utah?

I say, gentlemen, that wherever it may be that this Convention finally determines the site of the university and of the agricultural college, whether it decides they shall be united or separated, this body is as fairly representative of the people in that respect and knows as much about the question as any Legislature you are liable to get; and more than that, the uniform ten-

dency of this body has been to say, "We are the people, wisdom will die with us, and we will settle the question for the people, and we had better do it."

Thereupon the Convention took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. ANDERSON. Mr. President and gentlemen of the Convention, in consideration of Mr. Peterson agreeing to withdraw his substitute, I wish to withdraw my amendment to his substitute.

Mr. PETERSON. Mr. President, I also wish to withdraw the substitute that I offered.

Mr. Chidester offered the following amendment to section 4:

Insert at the beginning of the section the words, "until otherwise provided by law."

Mr. CHIDESTER. Mr. President, I do not wish to say anything on that. I merely wish to test the sense of the house.

Mr. EICHNOR. I would like to ask the gentleman from Garfield a question. Your amendment is "until otherwise provided by law." Is that to qualify the whole section?

Mr. CHIDESTER. Yes, sir.

Mr. EICHNOR. Or simply the location?

Mr. CHIDESTER. I think that is the effect of it.

Mr. PRESTON. Mr. President, I am opposed to the motion. We exercised the best judgment we had in committee of the whole yesterday in fixing this section and I think it is good enough the way it is, and as some of the gentlemen have remarked, now that the question has assumed so large proportions I think we had better settle it now. A few days ago, I might have been willing to an amendment of this character, but now that it has occupied so much of our time and attention, I do not think it is worth while to bother

future legislators in regard to this question. We had better settle it now—where they should be located, and it will be to the interests and benefit of the country and those institutions to do so. I am satisfied, I have heard all the arguments that have been made, pro and con. All of them have more or less merit in them, it is true, yet I think we had better locate them as we had it in the committee of the whole yesterday, where they are, and trust to future prosperity of the country, as we are satisfied that the State will be able then to take care of them and provide for them so that they will become institutions such as will be to the credit of the country. In 1888, if I understand it, was the time to have located those institutions together.

Mr. CHIDESTER. Mr. President, I will withdraw the amendment with the consent of my second, for the reason that I think it goes too far.

Section 6 was read.

Mr. CANNON. Mr. President, this morning my understanding was that a proposition was favored by a number of gentlemen, providing for union, but leaving to the Legislature the matter of location. I am certainly in favor of that and I desire to introduce as a substitute for section 4, the following: "The university of Utah shall comprise all departments and institutes of higher learning in the public school system, including the school of mines, agricultural college, the state normal school, and such other departments and institutes as may be established by law, and shall be located as may be determined by the Legislature."

Mr. HART. Mr. President, I arise to a point of order. We have passed that section and we are now considering section 6.

Mr. CANNON. Mr. President, I insist that the whole matter is open for amendment. We have the right to amend any part of this article that we see fit to do. The fact that it was

passed for a moment would not debar us from changing anything that might be desirable to change.

The PRESIDENT. The chair will entertain the substitute.

Mr. HART. Mr. President, I just wished to make a remark on it first. If the chair please, we have adopted the section here both in committee of the whole and upon third reading. We are considering the propositions in the order in which they are presented, and after a section is passed it has been the unanimous custom here to pass it for the time being. The only contrary position we have taken or the only amendments that have been permitted to sections that are passed are after we have gone through the whole bill. Now, Mr. President, if the gentleman wishes to introduce his amendment, wait until we get to the last section. We have passed that for the time being. I understand that after we go through the third reading of each paragraph, one by one, to the end of the article, amendments can be made to propositions that have been passed, but if we are going to dodge back from one section to the other after we have passed them, we will reverse the order that we have adopted heretofore and all parliamentary proceedings. Let the gentleman wait until we get through the third reading and then let him go back.

Mr. THORESON. Mr. President, I arise to a point of order. There is no motion before the house. We are now considering section 7.

The PRESIDENT. The chair decided that he would entertain this substitute.

Mr. CANNON. Mr. President, I arise to a point of order. My point of order is that the gentleman from Cache is out of order. The chair ruled it was before the house.

Mr. CREER. I appeal from the ruling of the chair.

Mr. HALLIDAY. So do I.

Mr. CREER. I claim that it is the

uniform rule in all legislative bodies in taking up bills on their third reading by sections that we must go along regularly by sections until we get through, and then the bill can be amended in any particular.

Mr. THURMAN. I hope the gentleman will withdraw his substitute until we get through the article.

Mr. KIMBALL (Weber). I want to call attention of the chair and the Convention to a ruling made by the chair while the legislative article was under discussion. My next door neighbor here, after reading of the last section—the one offered by Mr. Varian, offered an amendment to it, and Mr. Varian raised the point of order then that no amendment to that section could be made as it had been passed before that time. The chair so ruled and that was the ruling of the house and the point of order taken by Mr. Varian was sustained. That was the decision of the house and should be the decision at this time, if we are to maintain the order as the chair has already announced it, else we will be at sea during the whole session of this Convention, as to what the rules of the house are.

Mr. CANNON. Do you interpret it, Mr. Kimball, that we cannot amend any section that we have passed?

Mr. KIMBALL (Weber). No, sir. When we have read all of these sections, then you can go back to any one of them before the yeas and nays are taken.

Mr. CANNON. Mr. President, I simply withdraw this substitute and give notice that I wish to introduce it when the time comes.

Sections 7 and 8 were read.

Mr. KERR. Mr. President, I desire to offer the following as section 9, to come in between section 8 and section 9:

In cities of the first and second class the public school system shall be maintained and controlled by the board of education of such cities, separate and apart from the counties in which said cities are located.

Mr. THORESON. I move the adoption of that section.

Mr. KERR. I desire to state by way of explanation that at present, cities of the first and second class have to get their money from the State and also the voters in the cities of the first and second class vote for the county superintendents, and yet these superintendents have absolutely nothing whatever to do with the city schools. It seems to me, therefore, these schools should be entirely separate from the county schools and independent of the county superintendent.

The proposed section was adopted.

Mr. VARIAN. Mr. President, I just want to call attention to the fact that section 8, as I recollect it, in some degree may conflict with a section in the executive article. That ought to be borne in mind and not lost sight of when we come to arrange the different articles. I think that article provides that the superintendent of public instruction shall have general supervision. I only speak of it that members—

The PRESIDENT. That calls the attention of the chairman of the committee on compilation and arrangement to that, then.

Mr. VARIAN. Well, we ought to remember it.

Sections 9 and 10 were read.

Mr. RICKS. Mr. President, there is a point in section 10 I would like to call to the attention of the Convention, and that is commencing in line 2:

All property belonging to schools for the deaf and dumb, heretofore connected with the university of Utah, shall be transferred to said institution.

I would infer from that that all the property now used by the schools for the deaf and dumb shall be transferred to the university. Now, there is a great deal of property down there that is especially designed for that institution, and if it is moved from Salt Lake City, ought to be taken away and moved with the schools, such as the printing

presses, and carpenters' tools, and a great deal of property of that kind, and I believe it would be just as well to strike out that clause. I move that that clause be stricken out.

Mr. CANNON. I would like to ask the gentleman a question. As I understand it, there is a building that belongs to these institutions that will be stricken out by this provision. I am not on the committee. I do not know what the purpose of the committee was. I simply took it to be that they meant to remain with the university the building, if there is a building, connected with it, or something of that character.

Mr. RICKS. As I understand it, that building already belongs to the university and does not belong to the school of the blind or deaf at all, but I would infer that this meant the personal property that they are using at the present time, and I do not think that ought to be transferred back to the university, because it specially applies to these institutions.

Mr. CANNON. You notice the language is "heretofore connected with the university." If it was already there would you desire to strike that out and take it away?

Mr. RICKS. If there is anything there that would interfere with the transfer of that property back, if that construction could be placed upon it, I would not be in favor of that motion, but it seems to me it cannot relate to anything that heretofore belonged to the institution.

The PRESIDENT. Maybe the chairman of the committee could make answer as to what their design was in regard to it.

Mr. PIERCE. My own idea was that the clause can go out safely; that the property belonging to the institution should follow it wherever it goes. We put it in so that the property belonging to the deaf and dumb institution

should follow it wherever it goes. I think it would be safe to strike it out.

Mr. RICKS. My attention is called to the fact that this provides for a transfer of the property to the school for the deaf and dumb instead of to the university. If that is the idea, I withdraw my motion.

Sections 11 and 12 were read.

Mr. CANNON. Mr. President, I now desire to renew my motion to substitute for section 4 that section which I read.

Mr. ROBERTS. I wish to ask the mover of that substitute if the effect of his substitute is not to undo the work of yesterday and refer this whole subject to the Legislature?

Mr. CANNON. Mr. President, I would answer that by stating that this morning when the two propositions were before the house, this substitute, or about the exact language, was proposed by several gentlemen who said that they would favor it if they could have it introduced, but it was not then in order and after those were withdrawn this is introduced that it may test the sense of the Convention.

Mr. ROBERTS. I would like to ask the mover of the substitute another question, and that is if the substitute does not unite the two institutions?

Mr. CANNON. The substitute provides that they shall be united. The question of location is left to the Legislature.

Mr. ROBERTS. Mr. President, the attempt was made shortly after this session of the Convention, opened by the gentleman from Garfield, to accomplish the same purpose now contemplated in the substitute by preceding section 4 with the words "until otherwise provided by law." I think, sir, that the sense of the house has been tested several times now upon the question of leaving the location of the university and of the agricultural college to the Legislature, and I believe so far that every time it has resulted in a refusal to do that. I hope that it will again refuse to do it. I do not want to see

the work of the last few days utterly lost either to this Convention or to the people of Utah. If there is anything in this Territory that has been a vexed question, it is the question now before the house. The Legislature has had a trial at the solution and it would seem that it has judged itself incompetent to bring about the result that has been sought for in the agitation of this question in the Convention, namely, a union of these institutions. I was satisfied, sir, with the result of the work that was accomplished on yesterday, and was perfectly willing to let the matter stand as it was settled by this house yesterday. This morning, however, gentlemen approached me and stated that they were confident that two-thirds of the gentlemen upon this floor were ready to vote for union of these institutions at Logan. I had no confidence in that assertion. That is, I believe those who told me were mistaken. I have more reason now to believe that they were mistaken than before the discussion took place this morning. No sooner was the motion made for union at Logan than, of course, another motion was made amending the former, asking for union at Salt Lake City. I was convinced from the commencement that whenever you decide for union or whenever you decide to postpone this matter to be dealt with by the Legislature, fixing union now—I tell you, gentlemen, it cannot be disguised, it means union at Salt Lake City. I wish to say further that I am firmly fixed in my own opinion that union with the agricultural college of the university at Salt City, means the destruction practically of the agricultural college and the beneficial effects which would flow to this community from it. You will argue in vain to remove that conviction from my mind, and I am also firmly convinced that this Territory in its present educational status is more in need of the agricultural college and the industrial

education that it contemplates than we are in need of the university.

Talking about our rivaling Cornell or Harvard or these great institutions of the country, and bringing all the ends of the earth together in search of higher education in Utah, I pronounce that an iridescent dream within the present century at least. It is all nonsense, it requires age, it requires reputation; we cannot hope in the next century to rival these institutions of learning; but what we can do, what is within the lines of possibility for us to do, is to make it, sir, in the line of industrial education, and we can make our agricultural college the center of that kind of education within this entire intermountain region. That is within the line of possibility, but you leave this question to be bandied about by future Legislatures, as it was bandied about by the legislation that has taken place in the past, and you mean to paralyze all our efforts at higher education in the next five or ten years. I am not willing that it should be left to the Legislature when we are so nearly within the settlement of this question. Settle it now, and I tell you that one year, two years will not pass by until you discover that you have conferred great benefits upon the people of Utah. I am willing, sir, to go as far as any other man in leaving as much of legislation as possible to the Legislature. But I am not willing to skip this important question and shuffle it off on future Legislatures. We can settle it now, and that is the proper thing to do, and I tell you, gentlemen, that these efforts at getting the principle of union of these institutions means union right here in Salt Lake City. I want to emphasize that, and the gentleman that offers the substitute knows that well, and I believe is as much confirmed in it as I am. We heard a good deal of patriotic talk this morning in relation to being willing to unite these institutions, even if the union had to take

place at Logan, but the moment that the amendment to that first motion came in, you heard no more patriotic speeches about uniting at Logan. I was told here in private conversation that it might be illustrated by the two women who in ancient times came before King Solomon, one with a live infant and another with a dead one, and gentlemen were willing to give up the live infant and let it go to Logan, and when gentlemen were speaking upon that question, I listened anxiously for a willingness expressed on their part for a union to take place at Logan, but I listened in vain for giving up the live child and letting it rest peacefully in the arms of Logan. I rather fancy that the mother of the dead child was pleading here for the live one. Now, I am opposed to having this question disturbed, for one, as fixed by the action of the committee here yesterday. I have some remarks to offer upon the question of location, as I believe that this is still a question involved in this consideration. If gentlemen are still patriotic enough to vote for union at Logan, I am of the opinion that the sacrifices that will be required in buildings and in building sites will not be very serious.

In the first place, sir, I do not believe that a removal of that kind would involve the loss of the site granted by Congress to the university. When Utah is a Territory or while Utah is a Territory and with only a delegate in the halls of the national council, I find, sir, that she still has influence enough to have such a munificent grant made in aid of her higher institutions of learning, on the condition that she erects buildings on that site within a period, I think, of five years. As a prominent educator said to me this morning, we can still have that site for the asking and without complying with those conditions stipulated in the act. I am pleased also to state that that is the opinion of the delegate to Congress

from this Territory. I am quite satisfied myself that when Utah shall have two senators in the senate and a representative in the house, that grant can still be secured without the conditions that are now fixed upon it. So that if the university shall be moved from here to Logan, I feel satisfied that we shall not sacrifice this beautiful site that is spoken of, and on the other hand, if we remove from the square the building where the university is now located, I think on the whole that will not be a very serious sacrifice, for the reason that it reverts to Salt Lake City and Salt Lake City is sorely in need of that building and that site for its high school. So that there will not be entailed the amount of sacrifice if the university is removed to Logan that would be entailed if we remove the agricultural college from Logan to Salt Lake City, for the reason that there is no practical use to which those buildings can be put if you remove the agricultural college from Logan, and hence, they would be useless to the city and useless to the State. So, sir, I was willing to vote for this motion that would take the university to Logan, if the majority of this Convention desires to do that. I am willing to vote with them for it, but I am not willing to give my vote to destroying the one educational institution in this Territory that the people need above all others. And when I think of the future establishment of the university here within easy reach of the military encampment, I am not carried away with my admiration for a site of that kind. I think, sir, that such a neighbor as that is very undesirable for an educational institution, that there is serious objection to such close proximity of an institution of learning, with the young that would be there to be dazzled by the equipage and glitter of soldiers, to come in contact with the immoral atmosphere that seems almost inseparably connected with the kind of life

forced upon the average soldier. I am willing, therefore, to use what influence I can for union at Logan if that is what gentlemen mean, but I do protest against gentlemen thinking that we can be hoodwinked into believing that to settle the question of union now and leave the rest all to the Legislature does not mean a future agitation for union here in Salt Lake City. Therefore, I object to this amendment.

Mr. FARR. Mr. President, I very much desired to say a few words upon this subject all the forenoon, but I knew that there were so many that wished to speak, that are plumb full of gas, and if they did not let it off, there would be an explosion, hence I gave way. I like to hear that kind of gas, hear both sides. One fellow gets up and he tells his story so admirably here we all think that he has got the case. The other fellow gets up and he tells his story right in direct opposition to him, precisely, why he has got the case. Well, now, what does all this show? It shows that we are a lot of boys here together, that is what it shows, like the boy building a cob house, another boy throws a cob and knocks it all over. Now, I think it is time that we got down to business on that business. I have been here in this Territory as long as any of you, I do not care who they are, and I have been particularly friendly in favor of the university being established here in Salt Lake City, and I have had but one mind, that it should stay here all the time. If there had been a majority vote to take it to Logan, you would have found my vote against it. It must stay here and we are going to build it up and we are going to make one of the greatest universities in the United States, and you will find the greatest learned men will emanate from this university, but I can tell you another thing. We have gone to work and established an agricultural college at Logan, the best place that I know of in Utah. We have just got it completed, spent some two hundred and

fifty thousand dollars, and here come some men with some fine speeches and knock it all over, like the boy throwing a cob against the cob house, just when we get it built, they want to throw it back to some other place. I trust we will not act as boys, but like men. I take great pleasure in going to that college and visiting it. It has a fine location; it has one of the healthiest spots there are in Utah, the finest water power I know of, an abundance of water, a good soil, and a climate that you can raise all the vegetables and most of the fruits, some fruits you cannot raise, but most of the fruits you can raise there, as fine as there are in Utah, and it has a fine climate, and a healthy spot and everything is reasonable and cheap, and I say we should sustain that. The argument is here, why it is going to cost so much, let us be united, union is power. I tell you, gentlemen, the agricultural college can be supported cheaper up there than it can be down here and the university can be supported here—in time have plenty of means and plenty of appropriations made and donations to the university to make a grand exhibition. I do not care whether it is fixed at Fort Douglas, or whether it is a mile or two south or half a mile south. I don't care anything about it, or whether it is down here on Union square, it matters not to me, but Salt Lake City is the place for the university. It was established here by wise men, men that built up the country and came here first, and it should stay here, and I am in for it here, all the time, and I am in for the college to remain at Logan where it is now, and I am in for another thing, that we fix it now, right here.

This idea of leaving all to the next Legislature to quarrel and wrangle over, have so many fine speeches that we have had here over it, and spend half of the session, and a few thousand or a few hundred thousand dollars in wrangling over that from session to

session, I am opposed to it. I say, let us fix it, and have the agricultural college at Logan, the facilities being all there, and let us have the university and be united in it. Why, bless you, children coming here to the university get positions, or in other words go to school, they go to the general superintendent and they tell him what they want. "Now, what is your advice in regard to where we shall go?" Why, says he, go to the agricultural college if you want to study those branches. They go there understandingly and without any acrimony, or feelings about it, and the agricultural college in the same way sends the students and scholars that come to school down here as being the best place for the university, because the branches were agreed upon. The management at the agricultural college and the management at university understand each other, and it is mutually arranged that such a class of children shall be at one college and the other at the other, hence, where there is union there is power; they move together as one. There need not be any feeling about it. Let us be united and sustain them both. I do not wish to take up your time, but I felt as though I ought to make these few remarks, having the experience that I have here in this country. And the location of these—do not let us go to work and break this up when they are just built up. Let us go to work like men and fix the thing to-day.

Mr. CREER. Mr. President, I move the previous question.

Mr. EICHNOR. Mr. President—

Mr. SQUIRES. It is not debatable.

Mr. EICHNOR. It may not be debatable. Mr. Cannon out of courtesy ought to have the privilege of debating it.

Mr. CANNON. That is all right.

The motion for the previous question was rejected.

Mr. EVANS (Weber). Mr. President, I had hoped that this matter would be

terminated without the great delay which has taken place, but I can see now that we are confronted with a somewhat serious condition of things. I believe that the proposition now before the Convention means simply this, that if the substitute of Mr. Cannon be adopted, it will result in rooting up the agricultural college which has been located at Logan City. I do not believe under the present conditions that that ought to be the case. If it were an original proposition, I should readily accede to the arguments of gentlemen who have spoken in favor of union, but with the present condition of things confronting us, as they are, together with our present financial condition and together with the fact that the location of the college has been at Logan for some years, and also in addition to that the embitterments of feeling which would naturally arise out of taking the college from Logan, I am in favor of this Constitutional Convention settling these institutions in the locality where they are at present. [Applause.]

Gentlemen, there is no use disguising the fact that at Logan a quarter of a million dollars has been expended, that the people of Logan and Cache County have prided themselves in the establishment of the agricultural college there. They have supported it with their influence, they have been loyal in carrying out its objects, and to take it from those people now, under the present financial conditions of the Territory, I believe would be wrong, and would work an injustice to not only those people, but to all the people of Utah Territory. They have, as has been stated here, an abundance of pure, clear water, they have an abundance of fertile soil, the climate is exhilarating, and healthful. It is removed from influences which would surround the children of the school, if it were established in Salt Lake City. I believe with my friend, Mr. Roberts, from Davis County, that the agricultural college

will be conducive to more good than would the university, if one or the other had to be dispensed with. Let us settle the question here and now. Let us leave the institution at Logan where it is established; let us not destroy a quarter of a million dollars' worth of property which has been properly expended there by the consent of the Legislature of the Territory, and let the university stay here where it is. Why, gentlemen, speaking upon the other question of the location of both of them in this city, however desirable it may be upon the part of some, certainly it never can be properly done upon the location granted by the act of Congress. I am informed that upon the east of the location is Fort Douglas, the military establishment, and on the north and the south are two grave yards, and on the west a brewery. Just think of such environments for children, where children might go and be educated, and think too, gentlemen, of the evil influences that might surround those people in a metropolitan city, such as Salt Lake is. All these things are not in existence at Logan. It was established there in the wisdom of the Legislature of Utah, and I believe properly established there, and ought to remain there. As my friend, Mr. Roberts, has suggested, it was reconfirmed by the last Legislature. Gentlemen, just so sure as this substitute of Mr. Cannon be adopted, just that sure will the agricultural college be taken from its moorings and destroyed, and the property which has been established there at the expense of the people of Utah, lost to us. Is it right to do it under our present financial condition? I hold that it is not, and that it is infinitely better—it will be more satisfactory everywhere throughout Utah, if we leave these institutions as they are now established, under the section as it is before the substitute was offered by Mr. Cannon. And, gentlemen, I beg of you that you

support the section as it now stands. I believe it is for our interest to do it, notwithstanding the theories which have been advanced by those who are better able to judge in educational matters than we are. It is a plain practical question. As has been stated, it is a condition that confronts us and not a theory at all. Let us accept the conditions as the people of Utah have formed them, and leave them in the condition that they are now.

Mr. LOW (Cache). Mr. President, I desire only to read from sections 8 and 12 of the act establishing the agricultural college. (Reads.)

I desire to say in reply to the gentleman's accusation this morning upon the floor—he made the insinuation, I believe jokingly, that in Cache County it was necessary to grow onions under a glass. I call the gentleman to witness that the best onions in Utah Territory are grown in Cache County. I also desire to state here without fear of contradiction, another statement that the gentleman produced this morning, which he is not able to sustain, that there are more students from all the surrounding counties adjoining Salt Lake County attending the agricultural college, situated in the northern part of Utah, than attend the university to-day. I spoke to the gentleman from Summit, who said that they had four to one—four students attending the agricultural college to-day where there was one attending the university. And the same will apply to the other counties. Utah County has more students in the agricultural college than they have in the university of Utah. Why? Because that institution is fulfilling the objects of its creation, as read from sections 8 and 12 of the enactment which I have just read to you.

Mr. RICHARDS. Mr. President, I only desire to say a few words in order that my position may be understood on this question. I reiterate what I said on Saturday, that this question has no

place before this Convention and has no place in this Constitution, and if the amendment offered by the gentleman from Salt Lake was to leave this entire question of union and of location to the Legislature, I should vote for it, but he proposes to dispose of one branch of it and not dispose of the other. I do not think I shall vote for it, and for the reason that I have stated. I do not believe that this is a matter that belongs in this Convention or that ought to have any place in this Constitution. It is unusual. As has been pointed out, there are only three states out of forty-four which have done it. And I think we ought to leave this matter to the Legislature.

Mr. JAMES. Mr. President, if it is in order I will make a motion to amend Mr. Cannon's motion, to defer the whole matter to the Legislature.

(No second.)

Mr. KIESEL. Mr. President, I would like to say a word. I have listened to beautiful speeches of the gentlemen, professors of the university and others, and their theory sounds very nice, that is a union of those two branches of learning, but from what I know of Cache Valley, which I consider the gem of all the valleys of the intermountains, and the purpose for which the agricultural college was created, I am firmly impressed that Cache Valley, surrounded as the college is and will be by a farming population, that that is par excellence the place for an agricultural college, for all practical purposes. I should be very loth to see that institution leave Cache Valley. Cache Valley has been endowed by nature as hardly any other valley in this country. It has been called the granary of Utah. Everything grows there that grows anywhere else, and I especially want to refute the assertion that onions grow under glass, because I used to keep a store in Cache Valley in ancient days and I used to buy very large quantities of onions and ship them to Montana and elsewhere.

I do not know—but I shipped them to Salt Lake, where they do not grow them under glass, and as I said before, nature has done everything for that valley, and the institution ought to stay there, and you certainly, after nature has done so much for the valley and incidentally for the college, you certainly do not want to commit a crime against it.

Mr. HAMMOND. Mr. President, San Juan has got into a rather tight place. [Laughter.] Before the motion is put, I would like to explain, if I can find words to do it, my position. I am not a word painter, I have been studying men and measures, and women some—most of my life—and I am not very good at talking, but I want to state this, that if they were to be united, these institutions, and this Convention to fix their location, I was for Salt Lake all the time. Now, if they are not to be disturbed, I would vote all the time for the college to remain as it is. That is my position.

Mr. PRESTON. Mr. President, I wish to continue a few remarks that I was making awhile ago, and it was to this end, that it is too late now to talk about moving these institutions. 1888, if I remember right, was the time it was located there, was the time to have located the agricultural college in Salt Lake, but that time has gone by, and now it is the proper time for us to locate them right where they are and build them up. The country can grow for them and support them, and we will be proud after awhile that we did not move one or the other. It is too much like boyism for legislators to meet and locate one thing here to-day and a few years after locate them somewhere else. Let them stay where they are and let them grow up and we will be proud of them after awhile. I am opposed to the motion.

Mr. CANNON. Mr. President, in making the motion to substitute that which is desired, I did so without a desire to

provoke the debate which has taken place. I was ready to vote at that time and would like to have done so without any further discussion. I believe that union is very necessary for these public institutions—our higher educational institutions in Utah. I believe that without union we will never attain the age or reputation spoken of by the gentleman from Davis County. He tells us we cannot expect to rival without age and reputation institutions of the east. We never will acquire age unless we strive to establish our institutions so that they will have a beginning and a starting point, and if we refuse that I believe we will regret it in the end. I do not care to take up your time in giving you my views about that, because you have listened to Professor Kerr and Doctor Talmage, and to others who have spoken upon this subject and who are making it a life study. I desire to read to you for a moment the opinion of a gentleman to whom I referred yesterday, Doctor Andrew B. White, of Cornell, who closes his letter in this language:

Scatter your public institutions as much as you please through your state. Give your asylums, retreats, reformatory institutions, prisons, etc., to various localities, but I urge that you keep all your endowments for the most advanced education together, for in this way can you secure an institution strong enough to give your young men and young women an education worthy of your state and our common country.

That is his view upon that matter, and I believe, gentlemen, that the only course is to put them under one management, unite them, and let the Legislature fix the place.

Mr. ROBERTS. Will the gentleman yield for a question? Did that author from which you quote fully understand the condition which confronts us in this issue, and did he make the remarks in the light of all the conditions by which we are especially surrounded?

Mr. CANNON. I do not know that he had our special case in view. He speaks on general principles, and without the tinge that would be given by fixing Salt Lake or Logan. He speaks on general principles. The very discussion that has taken place here convinces me that men look at this matter from a local standpoint. The gentleman from Davis wants to know why it is, if we are so patriotic that we would move to locate it at Logan, that we do not do so at once. The reason is, I believe it is better to locate at Salt Lake, but I am willing to waive that and let the Legislature decide in the future which is the better place. It is just as patriotic for a man from Salt Lake to work for union and leave it to the Legislature as it is for a man from Logan to work for union providing union shall take place at Logan, and say that he is not working for union under any other circumstances. I desire to state this point, that I am not antagonistic to the interests of Logan. I believe that Logan has a beautiful location; I think she has many natural advantages. I believe she is naturally an educational center; I believe that her people have that sentiment which has been referred to by one of her honored delegates, and I believe that they are worthy of an institution of the character of the agricultural college. I am willing to leave it to the Legislature and let them determine whether it is for the best interests of the people of Utah that they should be united, but I should take the ground that it is for the interest of the whole people that we should unite these institutions. Thirty thousand dollars a year, it has been testified, is the amount that can be saved when we give a proper appropriation for these institutions by uniting them. That is no trifling sum. The people of Utah are too poor and have too many burdens to afford to throw away this consideration, and I claim that it is our duty to provide now that there shall be union.

The very fact that the gentleman to whom I referred reflected upon Salt Lake City, shows the spirit that actuates the people in different sections. I believe that he is as free from sectional feeling as any man can be, and yet he comes in and tells us here on the floor of this Convention that Logan has a higher educational spirit than Salt Lake, that Salt Lake does not have a high educational spirit. And gentlemen, it is that very feeling that causes me to say that this may be settled now. Every time your Legislature meets, there will be a delegation from Cache County asking first for an appropriation for the agricultural college, not to confine it to its original design, but to make it rival the university, claiming that they have a higher educational spirit, and that very rivalry is that which we should stamp out or it will destroy the usefulness of the two institutions. Unite them, place them under one board, and that rivalry would cease, and it is for that reason that I desire to introduce the substitute that has been proposed.

Mr. ROBERTS. I would ask the gentleman if any member from Cache County has asked for the union of these two institutions at Logan?

Mr. CANNON. Yes, sir.

Mr. ROBERTS. I will state in explanation that if there comes any request from Logan for the university then I am not aware of it. If the gentleman is, I would like to hear him answer.

Mr. CANNON. I do not state that any one had advocated it, except as advocated publicly on the floor to-day at this time, but I did state that it has been advocated by gentlemen who are for union if it can take place at Logan, and that is a fact. The public records will bear me out.

The roll was then called with the following result:

AYES—30.

Bowdle

James

Brandley
Call
Cannon
Chidester
Christiansen
Coray
Corfman
Cushing
Emery
Goodwin
Green
Hammond
Haynes
Heybourne

Kerr
Lambert
Lemmon
Maeser
Mackintosh
Morris
Murdock, Beaver
Nebeker
Pierce
Robertson
Sharp
Shurtliff
Snow
Wells.

NOES—70.

Adams
Allen
Anderson
Barnes
Boyer
Buys
Clark
Crane
Creer
Cunningham
Driver
Eichnor
Eldredge
Engberg
Evans, Weber
Evans, Utah
Farr
Francis
Gibbs
Hart
Halliday
Hill
Howard
Hughes
Hyde
Ivins
Johnson
Jolley
Kiesel
Keith
Kearns
Kimball, Salt Lake
Kimball, Weber
Larsen, L.
Larsen, C. P.

Lowe, Peter
Low, Cache
Lund
Maloney
Maughan
McFarland
Miller
Moritz
Murdock, Wasatch
Murdock, Summit
Page
Partridge
Peters
Peterson, Grand
Peterson, Sanpete
Preston
Raleigh
Richards
Ricks
Roberts
Robison, Wayne
Ryan
Spencer
Squires
Stover
Thatcher
Thompson
Thoreson
Thorne
Thurman
Van Horne
Varian
Warrum
Whitne
Williams.

ABSENT—6.

Button	Robinson, Kane
Lewis	Strevell
Lowe, Wm.	Symons.

The president declared the substitute lost.

During the roll call the following explanations were made:

Mr. KERR. Mr. President, I would like to state that I am in favor of union with reference to the place of union, but I do not favor the substitute, and therefore vote no. My reasons are that this substitute does not even fix the time when the Legislature shall unite these institutions. It leaves it entirely open to the Legislature to have wrangling and neither institution can do anything under such a dispensation.

Mr. KIMBALL (Salt Lake). I am in favor of union, but I don't want to see this left in this uncertain manner. I will consequently vote no.

Mr. RICHARDS. Mr. President, I desire to be excused from voting on this proposition, for this reason, I do not want to vote for the substitute and if I vote against the substitute it is equivalent to a vote for the section as it stands, and I do not believe in either of them, and, therefore, I ask to be excused.

Mr. FARR. He can be excused.

Mr. ELDREDGE. I object to the gentleman being excused. I do not think it is a proposition on which a man should dodge the issue.

Mr. RICHARDS. I submit, Mr. President, it is not dodging the issue in a proposition of this kind.

Mr. ELDREDGE. Then, let us get it so you cannot dodge it.

Mr. RICHARDS. I submit I have a right to ask to be excused.

The PRESIDENT. I think under the rule there is no excuse if a man is within the enclosure. He must vote aye or no.

Mr. RICHARDS. Then, I shall vote no, for the reason that I do not favor the substitute, because it does not leave the

whole question to the Legislature; and I protest against having to vote because a vote of no is equivalent to a vote for the section, and that fixes the place, when it ought not to fix the place for either of those institutions. Now, I am on record. I hope the gentleman is satisfied.

Mr. KERR. Mr. President, I have just been reading that substitute and I change my vote to aye.

The PRESIDENT. The substitute is lost, gentlemen. The question now recurs on the adoption of the article.

Mr. GIBBS. Mr. President, I wish to offer an amendment to section 2, on line 4, after the word "high school," to insert "agricultural college," so that it would be a part of our school system.

The amendment was agreed to.

Mr. GOODWIN. Mr. President, I am informed by the chairman of the committee on commerce and manufactures that they do not intend to report on the question of the metric system. Hence, I renew the motion I made yesterday that there be a section stating that the metric system shall be adopted in all the public schools of the State.

Mr. EICHNOR. I would like to ask a question of the gentleman who introduced that motion—that would make it compulsory to teach it even in kindergarten, the way that motion is.

Mr. WHITNEY. Let them teach it there if they can understand it.

The motion was agreed to.

Mr. MAESER. Mr. President, I desire to offer a substitute for section 4, that the union of the university of Utah and the agricultural college shall comprise all the institutions of higher learning in the public school system, including the school of mines, the state normal school, the agricultural college, and such other institutions and schools and colleges as may be established by law, and that the said union of the university and agricultural college be located at Logan, Cache County.

Mr. KIMBALL (Weber). Mr. Presi-

dent, I arise to a point of order, that the ayes and noes having been called on section 4, and it having passed, it is now too late to offer an amendment to it. The chair so ruled when the legislative article was under consideration under the amendment offered by Mr. Varian, and this same amendment has been voted down once or twice here this afternoon.

The PRESIDENT. I think the point of order of the gentleman is well taken.

Mr. VARIAN. Mr. President, I move the previous question on the whole article.

Mr. EVANS (Utah). Mr. President, I would like to be heard on a question of personal privilege. I want to say that if that section has been voted on this day, in any way, shape, or form, I do not remember it, and the ayes and noes were taken upon the substitute which was defeated, and I think that the gentleman from Utah County is perfectly in order. That was withdrawn. It was discussed all day, but withdrawn. That question has never been voted upon by this assemblage.

The PRESIDENT. The substitute will be entertained, then.

Mr. VARIAN. I withdraw the motion for the previous question. Mr. President, was there not a motion to strike out section 4 that was voted upon?

The PRESIDENT. I do not remember of a motion to strike out the section.

Mr. SQUIRES. Mr. President, in view of the fact that this matter has been discussed now for something like three days, I do not see how any new matter can come in. I move the previous question.

The previous question was ordered.

Mr. CLARK. Mr. President, if I understand the substitute, it forever settles this matter that it remain at Logan.

The PRESIDENT. That is the way the chair would understand it.

Mr. CLARK. For that reason I am opposed to it and vote no.

The roll being called on the adoption of the substitute offered by Mr. Maeser, the result was as follows:

AYES—23.

Brandley	Lambert
Call	Maeser
Cannon	Maloney
Coray	Morris
Corfman	Nebeker
Evans, Utah	Partridge
Gibbs	Peters
Hammond	Peterson, Grand
Haynes	Sharp
Ivins	Snow
Johnson	Thorne.
Kerr	

NOES—78.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lowe, Peter
Barnes	Low, Cache
Bowdle	Lund
Boyer	Mackintosh
Buys	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Peterson, Sanpete
Eichnor	Pierce
Eldredge	Preston
Emery	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Roberts
Francis	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hart	Ryan
Halliday	Shurtliff
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Thatcher
Hyde	Thompson

James	Thoreson
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kimball, Salt Lake Wells	
Kimball, Weber	Whitney
Larsen, L.	Williams.

ABSENT—5.

Button	Strevell
Lewis	Symons.
Lowe, Wm.	

The PRESIDENT. The substitute is lost, gentlemen.

Mr. SQUIRES. Mr. President, I move the previous question on the entire article.

The previous question was ordered.

The roll being called, the result was as follows:

AYES—98.

Adams	Kimball, Weber
Allen	Lambert
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lowe, Peter
Brandley	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christiansen	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Page
Richnor	Partridge
Eldredge	Peters
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts

Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Thatcher
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Whitney
Kimball, Salt Lake	Williams.

NOES—3.

Nebeker	Wells.
Peterson, Grand	

ABSENT—5.

Button	Strevell
Lewis	Symons.
Lowe, Wm.	

The president declared the article adopted and referred to the committee on compilation and arrangement.

During the roll call, the following explanations were made:

Mr. CANNON. Mr. President, I am still opposed to section 4, but I vote aye on the article.

Mr. GIBBS. I am opposed to section 4. I will vote aye on the article.

Mr. HAYNES. I wish to express my disapproval of disunion, but I vote aye.

Mr. NEBEKER. Mr. President, I vote no for the reason that I think that the question of union of these two higher educational institutions overshadows every other proposition. It is a question that is of more importance than anything that can come before this Convention, in my opinion, and I think that the people of Utah will repudiate the vote that keeps them apart. I vote no.

Mr. RICKS. Mr. President, I move

we now resolve ourselves into committee of the whole.

Mr. EVANS (Utah). Mr. President, I desire to make a motion that when we take a recess, it will be until 7:30 to-night.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Evans of Weber in the chair, and resumed the consideration of the article on judiciary.

The proposed substitute for section 20 was read as follows:

Until otherwise provided by law, the salaries of the justices of the supreme court shall be three thousand dollars per year and paid quarterly out of the State treasury. The salaries of the district judges shall also be paid quarterly and by the counties comprising the respective districts in proportion to the taxable property of each and shall be in each district, until otherwise provided by law, as follows:

In the first district,—dollars.
In the second district,—dollars.
In the third district, \$3,600.
In the fourth district,—dollars.
In the fifth district,—dollars.
In the sixth district,—dollars.
In the seventh district,—dollars.

Mr. VARIAN. Mr. Chairman, I offer an amendment to be added to the end of the substitute, and with permission of my second will accept the amendment.

The proposed amendment was read as follows:

The necessary expenses actually incurred by any judge in holding court in any county other than the county of his residence, including travel, shall be paid out of the State treasury.

The CHAIRMAN. I believe, gentlemen of the committee, that when we adjourned yesterday evening we had under consideration the question of what amount should be inserted in the place of three thousand dollars. Mr. Farr moved that the words three thousand be stricken out and two thousand inserted in lieu thereof.

Mr. FARR. Mr. Chairman, it is a

very easy matter to raise the salary from two thousand to three thousand, should we want to or should any future Legislature want to do it, but it is a very hard matter to get it from three thousand down to two thousand, and I find that the salary at two thousand would amount to \$6.40 a day. I think under the present circumstances of the people that that is a good round sum for a judge, consequently, I am in favor of reducing and making this two thousand instead of three thousand, and certainly shall oppose the other motion which is not before the house now. I am sorry to see the feeling of some members—I hope not many—a desire to raise the salaries of officers, to put it before the people to that extent that it will create hundreds and perhaps thousand of votes against the Constitution, which I am satisfied it will accomplish, and it will be no harm if two thousand dollars is not enough. In placing it at two thousand dollars, it can be very easily raised to three thousand. I am satisfied that \$6.40 a day, which is the number of working days—and I do not expect any one wishes to have them work Sundays—it would not be legal if they did. I am in hopes that this honorable body will take into consideration the propriety of making the salaries at a reasonable figure, especially under the present pressure of the people, so badly in debt, as nearly nine-tenths of the people of Utah are bankrupt, as well as the whole civilized world. They cannot pay their debts, and they go to piling it up and in these times I can tell you it will be the means of losing hundreds or thousands of votes on this. I want it understood that I am opposed to three thousand. I think that two thousand is plenty, \$6.40 a day is plenty. These men have their expenses borne, or their traveling fees are. I hope this honorable body will look at that matter reasonably.

Mr. ANDERSON. Mr. Chairman and

gentlemen of the committee, I am opposed to the amendment and also to the substitute. I am in favor of the section as it now stands. I think that the salaries of the judges should be paid by the State. The chief wealth of the State lies in Salt Lake and in one or two counties, and Salt Lake City would be better able to pay ten thousand dollars to her judges than some of the outlying districts will be to pay one thousand. We need just as good judges in the outlying districts as they do in Salt Lake City, and I do not think it will pay to be too economical—to cut down the salaries of our judges too low, because two or three mistakes made by a poor judge would more than amount to his yearly salary. I think that the section is about right the way it stands now, and I am opposed to both the amendment and the substitute.

Mr. EVANS (Utah). Mr. Chairman, I am not in favor of this thing exactly as it stands. However, I am opposed to the substitute and also the amendment by the gentleman from Weber. I think it is incumbent upon this State to maintain the order of the State. I believe the State ought to prosecute criminals of this State, and as was remarked by the gentleman from Weber, the rate per capita would be very small, in some of the most populous counties. I think, perhaps, I may take the liberty to speak on this question, for the reason that I happen to come from a county that would be, I presume, abundantly able—or a district, to bear their own expenses. Therefore, it will not be attributed to me as being selfish in this question, I think, but I speak upon it from principle. I believe it is the duty of this State, by their finances, to pursue the offender, to maintain peace and good order, and bring those men who transgress the laws to justice, and for that reason I am opposed to the substitute. I am opposed to the amendment for the reason that I think it is too small, and shall vote against them

both, and if I shall be permitted at the proper time, I desire to offer some amendments to the section itself.

Mr. VARIAN. Mr. Chairman, I desire to state that I am willing to accept in place of my proposition, the substitute that I understand is practically offered and will be offered, as soon as my motion is out of the way, by Judge Goodwin. I am willing to withdraw mine and let this take its place, and the question will then stand as before, upon Mr. Farr's motion to reduce the salaries of the justices of the supreme court to two thousand dollars.

The CHAIRMAN. The question is now upon the amendment offered by the gentleman from Weber, Mr. Farr.

Mr. VARIAN. To that question, I desire to submit a word or two. Gentlemen perhaps fail to appreciate the fact that when you take a man from the profession of the law, engage him for a period of years to serve you on the judicial bench, he is deprived not only of making money in any other way—certainly he cannot practice law. You all understand that, but if he acts in accordance with the higher ethics of the profession and as he should act, he is practically taken from all kinds of business, because the people would not want a judge and ought not to have one who was liable to be confronted in the cases that may be brought before him with the fact that he is interested in the several business propositions which may be involved, necessitating the calling in of other judges and blocking and obstructing the wheels of justice. The purport of this motion, if it should carry, would be, sir, to reduce the means of living of your justices of the supreme court to bare necessities.

I undertake to say that no man can maintain himself in this city and keep a family, as a justice of the supreme court should be permitted to do, on the sum of two thousand dollars. I do not mean to say that he cannot live. He can eat and he can sleep, and he can

move about, but he is absolutely placed in a cramped situation, so far as money matters are concerned. You will hold him there, if this article shall go through as it is presented, for seven years, during which time you cannot increase that salary. Another one of these judges will be held there five years, if he shall live so long, during which time his salary cannot be increased; another for three; at the end of three years a new judge comes in and the salary may have been increased to something like a reasonable compensation, and you have then the situation of one judge getting three or four or five thousand dollars, whatever it may be, to other judges only getting two; they having also had longer and wider experience on the bench. You can imagine what sort of a feeling that kind of discrimination would engender. My own view is, I am in accord with the suggestion of the substitute by Mr. Goodwin. Two thousand dollars is not high enough, but I certainly ask you not to reduce it to two thousand.

Mr. KERR. Mr. Chairman, I certainly would not desire to take up the time of the committee on this subject, believing that the committee would not vote for a moment to make the salary two thousand dollars for justices of the supreme court, were it not for the action which was taken on the salary of other officers, when the article on executive was under consideration; and it does seem to me, Mr. Chairman, that a proposition on the ground of economy to reduce the salary of a justice of the supreme court from three thousand to two thousand dollars, thereby saving one thousand dollars a year only to the State, comes with little grace from a gentleman who has just voted to throw away twenty or thirty thousand dollars of hard earned money of the people in voting for a separation of higher educational institutions. Gentlemen of the committee, I submit that a man who is capable of serving as a justice

of the supreme court of Utah is certainly worthy of his hire, and we should not be guilty of such parsimony as will ask men learned in the law to sit on the bench for the paltry sum of two thousand dollars a year. I would like if it were possible to have reconsidered the article on executive, that we might pay the superintendent of instruction, the governor, and the other officers salaries that would be consistent with the work which is required of them. I do trust, gentlemen of the committee, that this amendment will be voted down and that in all of our efforts to economize we shall pay our men what they are worth. Talk about endangering the Constitution by a difference of a few hundred dollars a year, when we treated so lightly the question which involved thousands upon thousands of dollars! Let us be consistent and pay these men what they are worth.

Mr. GOODWIN. Mr. Chairman, I hope this committee will bear with me a little while. I have a man here who is opposed to my views and so I obtained his time, not so much to talk myself, but to prevent him. I feel very sensitive over this question and I would like to explain that in the committee we had the same opinions presented that we have here, and the committee will bear me out in saying that—anything less than four thousand dollars a year for a supreme or district judge would be disgraceful. However, we agreed upon three thousand dollars, but I was exceedingly glad yesterday when Mr. Varian proposed to increase that salary in this district, and I was not sorry when the gentleman from Weber proposed to reduce it because it brings the whole matter before this committee, and I believe a fair contemplation of it will be good for us. It will not be nearly so long a debate as we have had on some other questions of not nearly so great importance. I believe of all things in high salaries for judges. I believe in very long terms for judges. I do

not believe any perfect judicial system will ever be established in any country without these two features being part of the system. Fortunately, I am backed in that opinion by some very high authority and I want to read just a few lines from a gentleman who has an international reputation as a lawyer and jurist. I mean Judge Dillon. I copied this from his lectures on law and jurisprudence. (Reads.)

I can bear to hear gentlemen talk about low salaries for almost any other office except such as pertains to the judiciary, or to public education. We are told how much a man can make a day sitting as a judge and how much more it is than as though he worked at manual labor outside. And the same gentlemen, if they had a fifty dollar watch that needed cleaning and repairing would gladly pay ten per cent. of the value of that watch to have some mechanic fix it and they will take it to a jeweler and not to a blacksmith, but the moment it comes to the handling of this most intricate and absolute science, the administration of the law, then their minds are filled in a moment with some venerable wooden headed old justice of the peace that they knew in another country, and about seven dollars a week they say is a fair salary. Do they ever stop to think that before a man is fit to occupy a place of that kind he has to consume years and years of patient study? And that the courts of our country, as they are administered and when properly administered show all the advance that mankind has made from the stone age? A judge who is elected in this State under this Constitution will have the lives and fortunes of this whole community in his grasp. Would you give him the same salary as you would give a bookkeeper? That is the point. If he administers his office properly he at once lifts up the standard of society in Utah. If, because of the miserable salary proposed for him, you can obtain no one who is fit for the

place, then you lower society correspondingly. Again, there is no need of this miserable and costly economy. I understand that all the fees will be paid now into the treasury and the officers of the courts who heretofore have been recipients of the fees will be paid salaries. In that case I take it that the fees paid will amount to just about as much as the salaries of all the judges in this new State. I know they will if the fees are kept up to where they have been in the past. There is a deeper question than all this. We have more than once since this Convention met heard gentlemen speak of that inspired instrument, the Constitution of the United States. Did they ever stop to think that half the reverence due that instrument and half the significance to that instrument is due to the interpretation and construction of it by the supreme court of the United States? Did they ever realize that while in politics Congress may go wild, while presidents themselves may be lured here and there by political questions and political dodging, from the first the supreme court of the United States has been the ark of safety to this land in times of great political excitement, in times of civil war, when every other hold was broken in the thoughts of men they turned their eyes and obtained rest watching the steady progress of that great court, moving as does the Gulf stream through the sea, and shedding only warmth and light around it, unswayed by any of the storms which shook the people, undisturbed by the passions which were rocking the nation and threatening to rend it in twain? That is what the supreme court of the United States has done for this country, and many of the courts in the states have been to the states what that has been to the nation. In this State you can elect cheap men. You can have incompetent or dishonest decisions for a few years, and then you attack the very life of the State itself, for just so soon as men lose their faith

in the integrity and wisdom and justice of our judicial tribunal, that moment their patriotism will begin to wither and die, and patriotism to the citizen is what faith is to the religious man. Drag it down once and we have simply a community of anarchists.

Again, if a judge of this State is to give you the best efforts of his mind, he has got to be undisturbed by the petty cares of this world. He has not got to be worrying over the fact of how he is going to meet his monthly expenses, and on two thousand a year he will be doing that or will be clamoring for a re-election, because when the term has expired he will be out of practice. He will either be troubled with business or will be getting his hands behind him. There is not one of you if you had an important case involving as much as five, or ten, or fifteen or twenty thousand dollars that would not expect to pay the lawyer that you would have (for you would not have a cheap lawyer) for that one case about as much as it is proposed to pay a judge here for a year sitting on the lives and property of the community. Cut down the governor's salary, cut down every other salary, but do not put your hands on the salary of the judge and disgrace him before this community. If you have not dignity enough to hold up the salary then take the view of self-interest. You need capital. Do you believe that capitalists who are shrewd men will come to a state where the high judiciary is paid two thousand dollars a year? They will say a man who will take that office for two thousand dollars a year naturally will sell out cheap, if we get in trouble. Fix it so that men of character will take the place. I am sorry the terms are so short, I would like to have them go on twice as long for the supreme bench; I would like to have them for life, but don't disgrace those men or disgrace yourselves by fixing the salary at an amount which

you would not dare offer a man fit to be your confidential clerk in a business house. [Applause.]

The substitute proposed by Mr. Goodwin was read as follows:

The judges of the supreme and district courts shall be paid their salaries quarterly. Supreme judges shall receive each an annual salary of thirty-six hundred dollars, which shall be paid by the State. Salaries and the mileage of district judges shall be paid half by the State and half by the counties in their respective districts, in proportion to the property valuations of said counties. The salaries of district judges shall be as follows:

First district, \$2,500; Second, \$3,000; Third, each, \$3,600; Fourth, \$3,000; Fifth, \$3,000; Sixth, \$2,500; Seventh, \$2,500.

Mr. BOWDLE. Mr. Chairman, I am glad the substitute was offered. I was not well pleased with the original proposition that was before the Convention, because that fixed the salary of the supreme judge the same as the district judge throughout the Territory. I do not believe that was wise. I believe that the supreme judge should receive a larger salary than the ordinary district judge. That is the court of last resort. The district judge may in his hurry make a mistake. That mistake can be reviewed, but when we get to the supreme court, so far as the courts of this State will be concerned, that decision is final. With that must be an additional responsibility. The court, as you have often heard in your practice, while you have been practising at the bar, says, "Well, if I make a mistake in the trial or the decision of this case, you have your remedy. You can go up and reverse me on that." But you cannot do that when you get to the supreme court. There must be that decision there that will meet the merits of the case or the merits of the litigant will be lost. What will be the duties of the supreme court? It will be to review the question that may come from the lower courts, to construe this very Constitution that we are trying to

make, for the court to give it direction, to pass upon all legislative acts that may come before it, to say to the Legislature, "You are building upon the Constitution. There is your foundation, thus far you can go and there your progress must be staid." It is the bulwark of American liberty. When you come to think about it, you can afford to be niggardly and stingy with every other class of salaries, but this class you cannot. What are the reasons why you cannot afford to do that? You call upon your judges to perform personal service in every instance. In almost all other cases of salaries that power can be delegated. You take your auditor of state, or your treasurer, or your secretary of state, the large part of his work can be done by a clerical force. It is not so with your judiciary. It must be their own acts; it must be their own brain and by their own hand that all work must be performed. They cannot delegate it to any power. It is their whole time and attention and industry that must be devoted to the questions that will be brought before them.

And therefore I say we cannot afford in that important department to deal out with a close hand the salary of these men. If we wish to be respected and looked upon as a State that has some means, as it has backing, we cannot say to them, "Take two thousand dollars a year; that is all you can get." I believe there is no state in the Union where the supreme court receives the paltry sum of two thousand dollars a year, so far as I know. I do not know of a single one. The state of California pays its supreme court judges six thousand dollars a year. We cannot afford to pay that much. Therefore, I am in favor of this substitute.

Mr. JOLLEY. Mr. Chairman, I wish we were able to pay our judges the full amount or the largest amount that is asked for here on the floor. For one, I would be glad to vote for it, but there

is a consideration to take in view, and that is the uniformity of prices. We had our chief executive voted upon at twenty-five hundred dollars. There was a motion made and it was cut down to two thousand dollars. I, myself, think that the supreme judges ought to be paid more than the district judges, and I would hate for us to establish here a salary for either the supreme judges or the district judges that would cause our attorneys to leave our fair Territory. In the past, judging of the number that we have to-day, Utah has done a good deal for such men, and I would hate to do anything or put the salaries so low that would cause them to leave, but I want to tell you, gentlemen of the committee, the skeleton that was held up in the papers before this Convention convened, and that was constructed by the judiciary of Utah Territory, created great anxiety among the common people and the masses of the people of the Territory, and I, for one, was cautioned on leaving my constituents to carefully guard the act in relation to the salary of the judiciary. Now, I realize that it is necessary to pay men well. My friend from Salt Lake, on my left, said he did not know of another state in the Union where those judges were paid as low a salary as two thousand dollars. But I find that South Dakota is districted as we are now districting this Territory. They have eight judges, with one judge to each district, at two thousand dollars, with a proviso that the legislature may raise that salary to twenty-five hundred dollars. Now, I have not heard yet that the attorneys and the judges have all vacated Dakota or that they are deprived of plenty of men capable of sitting upon those benches. And while I am in favor of paying all that we can pay, I think it is fair to look at this from both sides. The investigation that is now on—to consider that there would have to be a uniformity of salaries and prices in order to give satisfac-

tion to the people and in order to do justice to those that are holding office. Now, for one, I do think that the chief executive of any state should have as high a salary as the district judges, and if the district judges are worthy of three thousand dollars, I think that the chief executive is. But I do think three thousand dollars a year is too high. I think that two thousand dollars is high enough for district judges. I think the supreme judges ought to have more than two thousand dollars. When you think about \$6.40 not being enough a day for a judge or anybody to live upon, I think that \$9.60 is a little too much. Therefore, I will sustain the motion of my friend from Weber.

Mr. EICHNOR. Are you aware how much time and how much money a man must spend before he becomes an attorney and afterwards a judge?

Mr. JOLLEY. I will answer the question, no. I am not aware for I have not tried it by experience; but Mr. Eichnor, are you aware of the number of hours a day that men have to spend, that have to pay the salaries to these men, on the farm?

Mr. HART. I would like to ask the gentleman whether he ever was able to engage an attorney to work for him in court at the rate of \$6.40 per day?

Mr. JOLLEY. I have never been in a position that I have had to engage any attorney to work for me.

Mr. IVINS. Mr. Chairman, if I properly understand the substitute offered, it provides for a discrimination in the salary that is to be paid these judges on a sliding scale, indicating, I suppose, that the services of the judge in one of these districts might be of greater value than in another.

Mr. EICHNOR. Mr. Ivins, in districting the southern part of the Territory we found it absolutely necessary to make two or three districts with only half the population which were first intended for a district, and it is in on that score that there is a discrimina-

tion made in the salaries. They will have to pay about half as much as in the second or the fourth district; should be one-eighth of what they will have to pay in this district.

Mr. IVINS. I have not taken time to make any calculation to determine as to whether the gentleman is correct in the statement which he makes or not; probably he is, but I notice that in the third district, which is provided for in the report of the committee, there are three judges, and one in the other districts. I suppose that the idea of the committee was that one judge would be able to take care of the business in each of these other districts, and that three judges, would be equally able to take care of it in this district. Now, I am of the opinion that the services of these men are equally valuable, no matter what part of this Territory they would perform services in, and if we pay a judge three thousand dollars for services in Salt Lake City, or the district in which this county is embraced, he should receive the same remuneration in any other district in this Territory. I believe that the report of the committee is a good one and that we cannot improve it if this system is to be adopted at all. I am opposed to the whole system and should have preferred the old system of probate courts, but the report as it is provides that those men shall be paid an equal salary, and furthermore that they shall be paid out of the State treasury. The substitute provides that one-half of their salary shall be paid by the State in outlying counties, and the other half by the district in which they serve. This I am opposed to. I believe the proper thing for us to do is to put these judges on an equal footing, pay them all out of the State treasury, pay them all the same amount of money, and if it is necessary, create another judge or two in order to do the work. Let us approve this just as it stands here.

Mr. VARIAN. Are you willing to pay

them all the sum of three thousand dollars?

Mr. IVINS. Yes, I am willing to pay them the sum of three thousand dollars until otherwise provided by law.

Mr. VARIAN. Let me explain the reason why we put in this proposition. It was that we anticipated that the outside districts would pull these salaries down and that would be exceedingly disadvantageous to us in this district.

Mr. IVINS. I do not know what may be the feelings of the representatives from other outside districts, but so far as I am concerned, I am willing to vote for this section just as it has been reported by the committee. With that view, that if any injustice is done here, either in regard to salaries or the proportion paid in different districts, the Legislature will take care of it when it shall meet. Let us have the section just as it is.

Mr. THURMAN. Mr. Chairman, I am somewhat surprised at the substitute. At least, I was before Mr. Varian explained the motive for introducing it, for it seemed to me there never was a question discussed more thoroughly and fully in the committee by men of all classes brought together, than the question of the salary for these judges. I have no fear about the salary being reduced below three thousand dollars. I am satisfied that this Convention is intelligent enough to understand that judges cannot be obtained in Utah at a less salary than three thousand dollars, that is, the kind of judges you want. Our judges are receiving to-day three thousand seven hundred and fifty dollars. They have been receiving four thousand dollars, and the Legislature of Utah—the representatives of the people have raised their salaries, and have even had to violate law, as I take it, to raise the salaries of our judges in the past from three thousand to four thousand dollars a year, but this committee thought, in view of the extraor-

dinary expenses that we would have to bear, and the inability of the State, perhaps, to bear the burdens, they would put the salary down below what it has been for several years, and below what we thought in justice it ought to be. The salary, gentlemen, in the judgment of the committee, is below what it ought to be even at three thousand dollars. Now, one word in relation to making a distinction between judges. I agree exactly with the gentleman from Washington County. I would feel ashamed, so far as I am concerned, to stand in this Convention and say that every judge in this State of a court of competent jurisdiction should not be placed upon an absolute equality as to salary. As far as the work is concerned, the judge who has to attend to the business in Sanpete, Carbon, Emery, Grand, and San Juan, will have as much work to do—he will have a far more difficult job to perform in order to do it, than the judge who sits here in Salt Lake City, who only has to go out of the courthouse to go to his residence a few blocks away, and from his residence back to the courthouse to attend to the business, and not only that, the judge who is to try a case involving a thousand dollars in Carbon County requires just as much ability and competency to try that case, and do justice between the parties, as the judge who tries a case involving the same amount in Salt Lake City. Our courts of general jurisdiction everywhere in the State ought to be put upon an absolute equality, and they ought to be paid out of the general funds of the State. I think there can be no question about that, and the same with all of these other districts. I believe there is not a lawyer in this Convention, there is not a lawyer in Salt Lake City, if he was called to the bench to-day and asked, "Where would you rather have your field of labor, in Salt Lake City, or in some of these outlying counties, where probably there will not be so many

cases to try, but a good deal more traveling and roughing it to do?" but what would say, in Salt Lake City, every time. They have the advantages. I say it requires a judge of greater ability in San Juan district than it does in Salt Lake, or the Provo, or the Ogden district, for the reason that he would be compelled to act there without books. He has got to have the law in his mind—in his head. He has got to be able to decide it without the benefit of libraries, either private libraries or the public library, and, gentlemen, we cannot afford to place the salaries in these outlying counties so as to give us an inferior quality of judge to perform the work. I think that every one of us ought to unite upon this practically as it is.

Mr. CREER. Mr. Chairman, I understand the difference—the total amount would be but little, as between the proposition offered by the gentleman from Salt Lake and that as made by the committee. I think the total amount would amount to about \$36,000 under the provision that is made by the committee. I am in favor of the report of the committee—that is, the principle; that is of giving each judge the same amount of salary, no matter whether he is in this or any other district, but as to this matter of estimating the ability and time that it takes to qualify an attorney to become a judge, I take it, gentlemen of the committee, that there are a great many citizens of this commonwealth that have expended as much time and means to qualify them to follow the business that is their particular avocation as it has taken to qualify a judge. Now, you may take a man that may have two or three thousand dollars invested in a firm and he cannot make as much as is proposed to pay a judge—

Mr. ROBERTS. I wish to ask the gentleman a question. In the event of gentlemen having expended as much means in order to qualify themselves

for business pursuits as a lawyer has to spend to acquire his profession, do not those parties make much more than two thousand dollars a year or even three thousand dollars a year?

Mr. CREER. No, sir; no, sir. I take it, I am acquainted I believe with a great many in this Territory who have good qualifications as attorneys that I assert have not expended as much as a man would do on a good average farm. Of course, they have acquired some by their practice—considerable. And furthermore, I will say this, that there are quite a number of good attorneys in this Territory now who do not, I believe, make more than ten dollars a day upon an average. Of course I will admit though that there are some that make more than that, but we must consider at the same time we fix these salaries the situation of those who have to pay the taxes. Here is \$36,000 just for that one part of the civil government alone—that is, the matter of judges, independent of the officers and the jury and the witness fees and all of these things. Now, it seems to me that we ought to be careful. I would be willing to base it upon the estimate made by the gentleman from Salt Lake, that is to say, \$2,500. I think that would be fair for the district judges—between the two extremes, and we can refer to a great number of states that do not pay any more than that to-day. In fact, there is now one of the most eminent members of the supreme court of the United States who served the state of Kansas, as I understand it, for \$1,500 a year, so that I am not afraid of getting sufficient ability even at \$2,500 a year for district judges, and \$3,000 would certainly be ample to pay the judges of the supreme court. Therefore, I am not in favor of either proposition, but will vote to pay the district judges \$2,500 and the supreme \$3,000.

Mr. GOODWIN. Are you a lawyer by profession?

Mr. CREER. Yes, sir; I was admitted to the bar and am acquainted with a good many others.

Mr. GOODWIN. What would you charge a client to take charge of a case in which twenty thousand dollars was involved?

Mr. CREER. That takes cases in the probate court—divorce cases for twenty-five dollars, and I venture to say that there is but one or two in our district out of the whole list of attorneys that make more than ten dollars a day. My practice is mostly city and probate business.

Mr. GOODWIN. Well, that is a very small part of the law.

Mr. CREER. I am speaking of what I know of the others.

Mr. GOODWIN. Suppose a man came to you with a case in which twenty thousand dollars was involved and wanted to retain you, what would you charge?

Mr. CREER. I have been connected with cases where there has been more than twenty thousand dollars involved where we have been paid two hundred and fifty dollars.

Mr. GOODWIN. Still you think ten times that sum would be sufficient to pay judges to sit on all cases?

Mr. CREER. I think twenty-five hundred would be sufficient, compared with other states.

Mr. GOODWIN. Never mind other states.

Mr. CREER. Certainly.

Mr. GOODWIN. You do not compare Utah, with its great mining interests, with a state like North Dakota?

Mr. CREER. Wyoming, Kansas, Colorado—we have had good mining attorneys come here that do not make over ten dollars a day.

Mr. GOODWIN. Have you ever thought that the fees in the probate courts would pay the judges' salaries?

Mr. CREER. I do not understand that.

Mr. GOODWIN. It is proposed to pay

the clerks' salaries and turn the fees into the State. Do you think those fees would pay the salaries?

Mr. CREER. They would in some districts.

Mr. GOODWIN. They would pay them three or four times over. They would pay the whole salary of all the judges in this State.

Mr. CREER. On an average, it would not do it—you take the nine judges.

Mr. CHIDESTER. Mr. Chairman, I am opposed to this unjust discrimination, as it stands in that article. I think that the district judges should be as competent as any, for the reason that the poor man gets into court in the district courts and the blunder there will perhaps knock him entirely out and he can never appeal to get the advantage of these supreme judges. In speaking of the cost that men have in preparing themselves for the bench, I want to say this, while I am decidedly in favor of low salaries, there is no class of people that are under such expense to carry on their business as are judges, for the reason that they have to subscribe and they have to buy the reports of the various courts in the Union, and the supreme court, in order to keep up with the times, and they are very expensive, and they pay out more than ordinary salaries for this purpose, and their expenses are great, but I would not favor this unjust discrimination in the salary and I favor paying them out of the State fund and also to knock off the mileage. If the mileage was cut off, then I would favor the three thousand dollars a year, but no longer terms. I think it is ample, and by leaving this mileage to be put on by the judges would simply mean a vast amount. In my mind, they could run up a vast amount in this mileage, and I think that it ought to be settled. There ought to be a definite determination of that question and leave the salaries fixed so that we know exactly what we are going to pay the judges.

Mr. HAMMOND. Mr. Chairman, I am in favor of this section as it stands. If I was to amend it at all, I would amend it by raising the salaries. That is my fix. Now, sir, instead of San Juan being a place where there is liable to be no lawsuits—why it will be the hotbed of lawsuits in a very few years, perhaps months. I have two cases there in my mind now, one a case of jumping claims with the parties backing the jumper—a company supposed to be worth a million dollars or more backing his suit. Well, would he go and employ—what do you call it—a peanut lawyer? I have heard about peanut politicians. I don't think he would do any such thing. Therefore, we want the best class of judges for San Juan, and pay them.

The motion of Mr. Farr was rejected.

Mr. FARR. Mr. Chairman, there has been considerable said in regard to making a niggardly price, that the two thousand dollars would amount to. I admit that it looks niggardly in the idea of some and compared to the salaries of some, or what some are getting. I admit that; but when I come to compare that to the circumstances of the people, I think it is very generous. I am satisfied that there are hundreds of lawyers to-day in this Territory that do not make their six dollars a day on an average. I am satisfied on that, and would be glad to make that. I do not wish to cut down and curtail any man in his salary, or getting what he earns. I speak understandingly. I know what I am talking about. I have not been here all these years without learning a few things. I presume this, that many of you think that I have forgotten a good deal. Well, I guess I have forgotten a good deal more than what some people know. But that has no reference to the present company at all; that is always excepted. But I want it understood that I feel liberal towards paying a man what he earns, and I told you that I know what I am talking

about, because I have been in like circumstances. I have been in the law business and I have helped to make a great many laws, and I have served the public—I served one city alone for the period of twenty years as mayor, and I had a good many cases and a good many things to look after, and I attended to my business, and I only received fifty dollars for the whole twenty years. And I did not get poor over it, nor I did not rob anybody of anything, and when I was not going to the mayor's office or city council or looking after some mudhole in the road, to see whether the street man attended to his duty, I went to my garden and I hoed my potatoes and my corn, and I put in my time in that way, and by so doing I had good health, and I brought up my family, and they had good health, and it is a healthy exercise, consequently, I do not maintain that a man, because he is a judge, has got to sit on the bench all the time. He should have healthy exercise, and the idea of these judges going to the outside counties; they have their fees and traveling expenses paid, and we want just as good judges in the outside districts as we have here at home. We must remember, according to the provisions of the substitute that was offered, it gives Salt Lake judges three thousand six hundred dollars a year. You must remember that they have got three judges; that amounts to over twelve thousand dollars a year that Salt Lake has got to pay for their judges. I am satisfied, gentlemen, that two thousand dollars is no niggardly price for men these times, and if you do not tell me that ten years from now I will treat the crowd. If I know anything or see anything, we are getting into pretty tight quarters; we are owing some four million dollars in Utah at present. I would like to know where the money is coming from; if you do not begin to study economy pretty soon, you will wish you had, for you will be forced to it. I

thought this was a good time to commence. That is why I was willing to start in at two thousand dollars, and if we can get in better circumstances and pay our debts we will pay our judges more and pay other men more, but let us be consistent and reasonable and start in as we can hold out, for I do know that the people are being taxed to that extent that they feel cramped; they feel hurt; they feel as though they cannot do it; they cannot pay it. I know in one county between nine and ten hundred men that have been sold out for taxes. They would not raise the money, many of them—their homes have been sold, but others have had a portion of their property sold to pay taxes, because they could not get the money. Now, I would be glad to pay two thousand, three, or even four thousand dollars a year for our judges, if we had the means, but we cannot afford to start in on that at the present time. That is about all I wish to say. I do not feel disposed, because I have worked for nothing as long as I did, and got fat over it—I do not propose to cramp other people down to it, because they do not have the facilities to look after it as other people have, but I do believe in acting consistently and according to the signs of the times.

Mr. KIMBALL (Weber). Mr. Chairman, I am like my brother Farr, I am opposed to that substitute, but not for the same reasons. I do not think it is proper to make any discrimination in salaries, so far as district judges are concerned, because the committee certainly, in creating these districts, apportioned it so as to allot about the same work to each judge. If that be true, and I have no doubt it is, then the district judges' salary should be uniform. I am further opposed to the proposition of the substitute to pay any part of the salaries by the districts themselves or by the counties. I think that the State should bear the expense

of the judiciary. And it is so in almost every other state and it should be so in this State. The taxes are paid throughout the Territory generally into the territorial treasury and the State itself should provide for payment of those salaries. So far as the salaries of the judges of the supreme court are concerned, I would be perfectly willing to see the salary raised to \$3,600, but if we make the salary uniform for the present and allow the Legislature as the original section does, to provide to change the salaries hereafter, that matter can be easily arranged, but for the present, I think the provision as to salaries should remain as in the section reported by the committee itself. I hope that the substitute will be voted down and the original section stand.

Mr. VARIAN. Mr. Chairman, just one suggestion on this question of salaries. If this system of turning the official fees into the State treasury shall prevail, Salt Lake County alone, judging by the present and past, will turn into the State treasury at least fifteen or twenty thousand dollars and probably more. I think it is a conservative estimate, and when you take all the counties in the State you will see that the judicial salaries will not cut much of a figure.

Mr. GOODWIN. Mr. Chairman, I am perfectly willing to strike out the provision that half be paid by the districts and let it all go the same. I will offer that as an amendment.

Mr. VARIAN. Mr. Chairman, as I accepted that substitute, if it is in accord with the views of the mover, I am willing to withdraw the substitute. As I understand the temper of the Convention it is willing to let the original section pass as far as salaries are concerned.

Mr. GOODWIN. I think it had better be voted on.

The substitute offered by Mr. Goodwin was rejected.

Mr. EVANS (Utah). Mr. Chairman, I want to offer an amendment to sec-

tion 20, in line 4, by striking out the words "and mileage."

Mr. CREER. Mr. Chairman, I desire to offer a substitute for the section, as follows:

Until otherwise provided by law, salaries of the supreme judges shall be three thousand dollars per annum, and that of the district judges twenty-five hundred dollars per annum, and shall be paid quarterly together with their mileage.

This is offered as a substitute for the section and the amendment offered by the gentleman from Utah County together.

Mr. KIMBALL (Weber). Mr. Chairman, I move to lay the substitute on the table.

The CHAIRMAN. That is not in order.

Mr. EVANS (Utah). Mr. Chairman, I am in favor of the amendment that I offered, but I am opposed to the substitute.

I think it has been pretty well understood in this Convention that I am opposed to high salaries, but there is not a matter that has come before this Convention so far, to my mind, where it would be possible to bring as much expense upon the State, through bad management and inefficiency in the officers, as the one that is now being considered by this Convention. I am in favor of paying our judges three thousand dollars. I see, in looking over the constitution of Idaho, our neighbor state upon the north, that three thousand dollars is what they receive—their supreme judges and also their district judges, and I think that three thousand dollars is not exorbitant, when we take into consideration the fact that we need competent men, and by reason of their blunders that the citizen is put to great expense in cases where his individual litigation is concerned, and that the State is put to a great expense where the State is prosecuting cases. I am opposed to the system of mileage,

for the reason that it is susceptible of being abused. I think the temper of this Convention has declared on a number of other occasions that they are in favor of establishing salaries in lieu of all fees, and I take it, sir, that it is only another form of fees, where you place it within the reach of individuals—not casting any reflection upon our future judges—that it is another form of placing it within their reach where they may distort from the public treasury money that is not justly earned. It has been said by gentlemen from Salt Lake that many times the amount of the salaries that will be paid the judges in this district will be turned in in fees, as collected in Salt Lake City or in this judicial district. I believe that is true. It will be so to a greater or less extent through every district in the Territory. The more populous will turn in the greater amount, and I submit to you, sir, that while it is a fact that the cutting off of this mileage from these established salaries will have a tendency to work a greater hardship upon the outlying counties, I submit to you upon the other hand, that the cost of living will be, perhaps, much cheaper, and therefore, I believe that taking everything into consideration, being opposed in the first place to the mileage system—I have had some experience in dealing with that question, and it has made me cautious upon that point, and I am in favor that these questions be put upon a plane, equal, just as our sister upon the north has put them, at three thousand dollars, without any mileage at all whatever. Now, allusion has been made to the great learning that is necessary. That is true, but I submit to you, sir, that the American people, and the people of this new State, have now laid the foundation deep and broad whereby every son and every daughter within the pales of this State may be put upon the plane of education wherein, if they shall have energy

within themselves, that the road is clear before them, that they might attain to success in the literary field, and in that of sciences, and in that of the law, until we shall require at their hands, by reason of their services being proficient in these various avocations, that they shall be patriotic, and I do not believe that this system presented before us, that we will name a man at our conventions next fall that will refuse to take that position and step forth for the sum of three thousand dollars, either in Salt Lake district or in the outlying districts, and without any mileage either.

Mr. PAGE. Mr. Chairman, I sincerely trust that the motion of the gentleman from Utah County will not prevail, with reference to the striking out of mileage. In the seventh district, particularly, that will work a hardship upon the judge. There are hundreds of miles of travel that he will most likely have to make in that district, where there are no railroads or stage lines, in a wilderness country, where even the mileage will not justify him in traveling over the ground. The mileage that is allowed by law will not cover his expenses of travel in that district. It will certainly result in a discrimination, it seems to me, with reference to the judge in that particular locality. I am certainly opposed to the motion and trust that it will not prevail.

Mr. HART. Mr. Chairman, this question of mileage would not amount to much in some of the districts. For instance in the first, including Rich, Box Elder, and Cache, it would be a small item only, but it seems to me that in these districts, such as the 5th, 6th, and 7th, it would take a large part of the judges' salary for traveling expenses. We have fixed the number of terms of court in each county at four per year. He may hold more, and if one judge is to visit for instance the counties of Sanpete, Carbon, Emery, Grand, and San Juan, and go over that ground four

times in a year, or if he has to travel over the counties of Juab, Millard, Beaver, Iron, and Washington, and some of the other large districts, it will take a large part of his three thousand dollars for mileage. I do not think we should shut that off. Mr. Chairman, a judge who is worthy to pass upon the causes of men, upon their property and upon their lives, can certainly be trusted in the matter of making up his mileage. Of all the characteristics of a judge, honesty is the first, and if he will swindle the people on the false return of his mileage, why he will be absolutely worthless as a judge.

Mr. FARR. Mr. Chairman, I hope this substitute will not prevail. The gentlemen who spoke on it have spoken my mind very fair; should the two thousand dollar motion prevail, I had it placed that the mileage was paid for. I know it would amount to considerable. There is another point in this substitute, the increasing salaries of the supreme court above the district judges. Now, I want to say, gentlemen, that the district judges have from three to four times the work to perform every year that the supreme judges have. They only meet two or three times a year, but the district judges are at work nearly all the time, and I am in favor that all the district judges should have the same salary as the supreme judges. I think it is right that they should have it. They are just as well qualified, only the supreme sounds bigger, but they are no better men and they are no better qualified nine times out of ten.

The substitute offered by Mr. Creer was rejected.

Mr. CREER. Mr. Chairman, I simply want to say that the prosecuting attorney of Utah County serves that county for six hundred dollars a year, and the prosecuting attorney of this county, I believe, for twenty-five hundred dollars a year. I do not know what the attorney gets in Weber County, but I submit that a man that is capable

of assuming that responsibility is certainly capable of being a judge, and you may compute them and they do not average nearly twenty-five hundred dollars a year—the estimate I have placed there for the salary of the district judges.

The amendment offered by Mr. Evans of Utah was rejected.

Mr. IVINS. Mr. Chairman, I move that section 20 be amended by adding after "mileage" the words, "to be paid out of the State treasury."

Mr. VAN HORNE. Mr. Chairman, I do not understand how that amendment is necessary at all. These are State officers, and if mileage is provided for as part of their compensation, it would necessarily have to come from the State treasury.

Mr. IVINS. Mr. Chairman, I will say that my amendment designs to make it clear that not only the mileage, but the salaries shall be paid out of the State treasury, and I make it because the question was raised after my former remarks—when I stated it would be paid out of the State treasury, it was stated by a gentleman on the floor "Not necessarily so," and in order to remove that doubt, I make this motion.

The amendment offered by Mr. Ivins was agreed to.

Thereupon the committee took a recess until 7:30 o'clock p. m.

EVENING SESSION.

The committee of the whole met pursuant to adjournment.

Mr. CREER. Mr. Chairman, I will ask if amendments are still in order to section 20?

The CHAIRMAN. They are.

Mr. CREER. Then I wish to offer the following for section 20, that is the same that I offered before with the exception that the district judges be paid twenty-six hundred dollars a year and the supreme judges three thousand dollars a year.

Mr. VARIAN. I would like to know

if an amendment to that section was not voted down about filling the blank.

The CHAIRMAN. There was no blank to be filled. There was a motion made to strike out three thousand and insert two, that motion failed.

Mr. SQUIRES. Mr. Chairman, I understood Mr. Creer offered a substitute for that section which was voted down, just exactly like it, only twenty-five hundred instead of twenty-six hundred. We voted that down.

The CHAIRMAN. That is correct. The only difference now is in the amount.

Mr. VARIAN. Mr. Chairman, how long can this go on? I submit that when an amendment like that is proposed, any number of amendments are in order to the amendment, and they could be taken in their order, but these independent motions might be pursued indefinitely. The question now is whether this matter is in order. The question is whether a motion to strike these particular figures out and insert others is in order, a motion having been made and amendments opened thereto and having been disposed of by the committee.

Mr. CREER. Mr. Chairman, I wish to say this, I have not myself been fastidious in the matter of extending courtesies to the gentleman.

Mr. VARIAN. Oh, I withdraw at once, if that is the basis of it.

Mr. CREER. Mr. Chairman, now I wish to say that I have examined the salaries of some sixteen states, including eastern states and those of the south and those of the west, and the maximum—of course there are a number of states who pay higher salaries than the maximum that we selected—New Hampshire, Vermont, North Carolina, South Carolina, Virginia, Alabama, North and South Dakota, Delaware, Idaho, Montana, Oregon, Washington, and Wyoming—the minimum of the salaries of the states that I have named is two thousand dollars, that is:

of the chief justices and their associates, and the district judges. I find by computing the amount of the salaries from those sixteen states, it amounts to \$2,680 on an average. Now, it seems to me, Mr. Chairman, that this amendment that I offer, which is that the district judges shall receive an annual salary of twenty-six hundred dollars a year, is certainly in harmony with the states that I have reference to; but there is another point, and the gentlemen who have spoken upon this subject seem to emphasize the fact that it needs a qualification; it needs judges that are competent men, who are well versed in the law, and if that is true, certainly it seems to me that there ought to be a distinction as between the supreme judges and the district judges.

It is true as to those states that I have named, and in my motion there is a distinction there of four hundred dollars a year as between the supreme judges and those of the district judges, so that it seems to me, gentlemen, that we are only acting just and fair if we make this distinction, and furthermore, I am aware that the section as it is reported, and also the substitute presented by the gentleman from Salt Lake, was discussed more particularly from the members of the bar, but I think that gentlemen who have had experience in our Territory, and you will remember that previous to the calling of this Convention, the attorneys of the Salt Lake bar, and I think also of surrounding districts down below, met together and acted upon this matter of salaries—that is, they passed their judgment, and it was upon the judiciary question generally, and that provoked some little interest amongst our constituents. Now, I know of a number of quite prominent business men who remarked to me before I came down here that they thought that twenty-five hundred dollars was a pretty fair salary for a district judge, and I think that

the judgment of these gentlemen ought to have some respect; but I have another point that I wish to refer to; a gentleman upon this floor from the fourth district remarked to me that a very prominent lawyer of that bar said that he could pick the bar of that district at the annual salary of twenty-five hundred dollars a year.

Mr. THURMAN. Which district?

Mr. CREER. Ogden. A prominent gentleman had stated to a delegate of this Convention—

Mr. THURMAN. You mean that he could get any attorney up there?

Mr. CREER. That he could select any attorney. He could pick that bar, who would serve at the salary of twenty-five hundred dollars a year.

Mr. EICHNOR. Dave Evans would not do that.

Mr. KIMBALL (Weber). That man was talking through his hat.

Mr. CREER. I will except present company. I will except the gentleman from Utah County, but I believe you could pick the judge from any member of that bar of the first district.

Mr. VARIAN. He says he believes. What does he know about it? What are the foundations of his belief.

Mr. CREER. From what I know of my observation. It would be simply worth no less or no more than anybody else's.

Mr. GOODWIN. Do you know Mr. McCornick or Mr. Hills—

Mr. CREER. I am speaking of the local members.

Mr. GOODWIN. I am speaking of local men here. Do you know that Mr. McCornick or the manager of Wells, Fargo or the manager of the Deseret bank, gets eighty dollars a day?

Mr. CREER. I know what we pay to our clerks. I am connected with an institution of fifty or sixty thousand dollars capital, but I am speaking of the members of the bar. I am acquainted with the other, and I believe that they would be willing to serve the

people for that and there is no question about the ability of those men. Now, the states I have referred to—it must appear to you, gentlemen, that their wealth and population exceeds that of our State, therefore, I say that there is nothing in the point that the gentlemen seek to make that we have sometimes heavy cases; so they have in other states. We have mining cases, so have our neighboring states, and three thousand dollars is the maximum there, excepting probably Colorado, that gives a little more to their supreme judge, but I do say that there ought to be a distinction as between the supreme and the district court, and I believe that it is a very fair salary. It is more than an average, than what those states pay.

Mr. GOODWIN. Don't you think the district judge ought to be a brighter man than the supreme judge?

Mr. CREER. No, sir; I do not think so, and I believe that is the prevailing opinion on the part of the attorneys, because they have altogether appellate jurisdiction, they have to decide upon the mistakes, and in fact your own committee, Mr. Goodwin—

Mr. GOODWIN. They have ample time, though; if the judges were only bright enough on the district bench, there would not be so many mistakes.

Mr. CREER. Your own committee, as I understand it, made one very just point in that respect. That was that the supreme judges should decide questions of law only, appealed from the district judges, saying that they should have superior ability in that respect, and I believe that is true. I believe that instinctively we would naturally seek better ability for supreme judges than what we would for district courts.

Mr. EVANS (Utah). I think you quoted Idaho. As to Idaho, it is a mistake. The supreme judges and the district judges are paid alike.

Mr. CREER. I will admit that, but I said, computing the sixteen states the average is \$2680, including the chief

justice and the associate judges, and district judges of those sixteen states.

Mr. ROBERTS. Mr. Chairman, my understanding was that in view of the fact that it was supposed to be the almost unanimous sentiment of the house that they would not disturb the sum fixed for the judges by the committee, gentlemen who had amendments pending before the house withdrew those amendments or substitutes. That was my recollection of the status of this case when we closed this afternoon's session, and I take it, sir, that if that is the case—

Mr. EVANS (Utah). I think the gentleman should be corrected on that. That was put and voted down.

Mr. VARIAN. If the gentleman will permit me, in substance he is correct. Opposition was withdrawn on the understanding as he suggests.

Mr. ROBERTS. I think if I am not technically right, I am right in this respect—

Mr. VARIAN. You are right in substance.

Mr. ROBERTS. That the substitute offered by Judge Goodwin was permitted to come to a hasty conclusion in view of the fact that it was the understanding that we would not disturb the sum fixed by the committee, and all opposition was withdrawn. I am quite certain if that was not the understanding, that the substitute would not have been so hastily disposed of, and that the members of the committee would have contended for the substitute, if they had thought that this sum fixed by the committee would be disturbed. Now, sir, I take it, that we are not dealing squarely altogether upon this question. Gentlemen who favored that substitute permitted that to go to a premature vote, in view of the fact that they supposed, at least, that all opposition to this sum fixed by the committee would remain undisturbed, and I call the attention of the committee to this, and ask them to

come back and to stand by that tacit agreement on this proposition. I, the other day, spoke upon the subject of low salaries for the judiciary, and I am not in favor of catering to this sentiment of cheapness in the officers of this State in order to please the popular clamor, and I can state that when this question shall go before the people of the new State, I, for one, shall not fear to stand face to face with them upon that proposition, because, I take it, sir, that they are a reasonable people and they will know that this action of ours in keeping the salary up to this sum at least was in the interest of true economy, and not for the purpose of catering to the wishes of politicians. Now, sir, I take it that this committee is in honor bound by its tacit consent to let these salaries remain, and for that reason the substitute was permitted to go to a premature vote. I hope that we will not disturb this matter.

The substitute was rejected.

Sections 21, 23, and 24 were read.

Mr. RICHARDS. Mr. Chairman, I suggest that the word term in the first line should be changed to terms. I offer that amendment.

Mr. VARIAN. Let the secretary correct that.

Section 25 was read.

Mr. VARIAN. Mr. Chairman, I will just call attention to it now, that every point fairly arising upon the record of the case should be considered. I think that ought to be stricken out. I will make a motion to strike it out. I do not think any court ought to be held to decide questions not necessary to the decision of that particular case. The court ought not to be deciding in advance and building up precedents that might arise to vex the court and the bar thereafter. Perhaps, however, as there is not a full Convention here, I will withdraw the motion now and renew it on the third reading.

Section 26 was read.

Mr. VARIAN. Mr. Chairman, I offer

an additional section to come right after this:

The Legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have vacated his office.

The reason of that is—I have changed the time from ninety, as I have found it in other states; to sixty to meet the suggestion of some friends, but, Mr. Chairman, the idea is to prevent of course the application to the Legislature. We all know how that is. I could recite instances. A judicial officer makes an application to the Legislature and it is easily granted. That prevents the Legislature from doing it at all, and limits an absence from the State to sixty days.

Mr. RICHARDS. Mr. Chairman, I offer as an amendment to that proposed section the striking out of the word sixty and inserting the word ninety.

Mr. VARIAN. Well, I will accept that.

Mr. ELDREDGE. Mr. Chairman, I think that ninety days is too long to grant a judge the privilege of leaving the State at any one time. The times that we are in are somewhat different than they were thirty and forty years ago, when many of the constitutions were made. The facilities of travel, the modes of going about are so much different that a man, in sixty days, can take most any kind of a trip upon this continent and in fact cross over to the old world, and then get back in time. Judge Goodwin suggests, supposing that he had typhoid fever in case of his absence, but if he secures as good aid as what he is supposed to be in the law, in regard to medicine, he does not need to have it run over twenty-one days, and it should be broken up in fourteen, so I think in that case there is no necessity of lengthening the time. I am opposed to the ninety days.

Mr. EICHNOR. Mr. Chairman, I move to amend the section by striking out the word Legislature and insert the word governor. Our Legislature is to meet every two years. Suppose that the judge would have to go to some other climate for a month or two months, would we have to wait until the Legislature would meet?

Mr. VARIAN. You do not understand it. The Legislature cannot do it at all.

Mr. EICHNOR. I misunderstood it; I withdraw my amendment.

Mr. VAN HORNE. Mr. Chairman, I hope that that section will not be added. It seems to me unnecessary. We provide in section 11 of this act for the removal of judges for cause by any Legislature. I do not think that where we elect judges—the supreme judges, we will say, for a seven year term—that if by some misfortune of health one was to be away from the Territory or be compelled to be away from the Territory of Utah for sixty days, that we should say necessarily that he had vacated his office, or that he could be necessarily deemed to have vacated his office, or that the service for which he was elected through a long term of seven years could not be rendered upon his return to the Territory. It seems to me the provision is sufficiently covered by the provision against absenting himself without—

Mr. VARIAN. The power of removal requires the Legislature. It is offensive in its inception and its outcome. Naturally, it would require a good deal of reason for it. This section is designed to reach cases of judges going away. I find it in other states. I presume they found good reasons for it. A judge goes away for ninety days and he vacates his office. I think if he is sick or disabled for ninety days the public business requires that his office ought to be vacated. It is his misfortune, it is true; how else can the public business be conducted?

Mr. EICHNOR. Mr. Chairman, if I

can get a few minutes' time I will offer a substitute for the section. Any judicial officer who shall absent himself for more than sixty consecutive days shall be deemed to have forfeited his office, provided that in cases of extreme necessity, the governor may extend the time.

Mr. SMITH. Mr. Chairman, it seems to me the Legislature could provide for this without making a provision of that character.

Mr. VARIAN. I will ask the gentleman why it might be left to the Legislature? This is designed to prevent that very thing.

The section offered by Mr. Varian was adopted.

Mr. KIMBALL (Weber). Mr. Chairman, I offer an amendment to section 15 as follows, by inserting "and" before "Morgan," in line 6, by striking out "and Davis," in line 7, and by inserting "Davis" after "Salt Lake," in line 8. I offer that amendment for this reason, first, that will equalize the population; that will give about 24,000 to the second district.

Mr. THURMAN. I would like to ask the gentleman if that is the principal reason?

Mr. KIMBALL (Weber). So far as I am concerned, yes, sir. I have no bee in my bonnet. I am no candidate for office—and give about 72,000 to the third district. The third district having three judges, would have 24,000 for each judge, and the business of Weber County, as compared to the business of this district, is too great for one judge if Morgan and Davis are both tacked on. I have had some occasion to investigate that, and I am satisfied that the probate business of Morgan County and Weber County, thrown upon the district court, the district court would be in session in Weber County at least two-thirds of the year constantly, the same as it is now, or very nearly the same. For that reason, I would have the section amended in that way.

Mr. BARNES. Mr. Chairman, I would like to have a word or two to say on that matter. I believe it will be perfectly agreeable for the people of Davis County to stay with Weber and Morgan in that district; from all the information that I can gather it will suit them better. The gentleman's speech with regard to numbers—if I understand the matter correctly, in proportion to numbers there is a great deal more business for judges to do in this district than there is in that constituted by Weber, Davis and Morgan counties. Now, outside of the probate business of Davis County there is not a great deal of other business, and for one I feel to protest against any change being made. I have consulted with my constituents and they are perfectly agreed to be united with Weber and Morgan counties. I think the change ought not to be made.

Mr. FRANCIS. Mr. Chairman, I wish to say, so far as Morgan is concerned, the district judge has never had very much work from there, nor is our probate business of very great importance. I don't think that we need take Davis off of the district on account of the extra work that may come from Morgan. I prefer to let the district stay as it is at present. I don't think the judge will have any overwork on account of it.

Mr. KIMBALL (Weber). At the present time Weber County furnishes over two-thirds of the business.

Mr. MALONEY. Mr. Chairman, I was a member of the judiciary committee and also a member of the sub-committee. We labored on this something like six weeks. We consulted with nearly every delegate in the Convention. We tried to district the State so as to suit the people of every county in the State. We at last, after laboring some six or seven weeks, came to an agreement, and I think that the report of the committee ought to stand precisely as it was made. Now, the people of Morgan

County, the people of Davis County, were consulted about this business. They have agreed to this districting, and I think that before there is any disrupting of the districts as our committee made them those people ought to be consulted. In Davis and Morgan counties there is not a great deal of litigation outside of the probate business, and one judge in Weber County can attend to all the business in these three counties very easily. There is not that amount of business in those three counties, in proportion to the amount of business in the counties of Salt Lake, Summit, and Tooele. There is no necessity whatever for making the change offered by the gentleman from Weber, so I hope this committee will let the districts remain as the committee fixed it. And in addition to this I wish to say that in all the deliberations of our committee, I do not believe the question of politics entered the mind of a single member of that committee. The idea in the mind of every member of our committee was to get the districts in such a way that the judges of the respective districts might transact the business.

Mr. CANNON. I would like to know whether the number of people in the districts would then be proportioned about the same. As I understand it from the remarks of one of the gentlemen, the second district would then comprise about 24,000 people and this district would comprise 72,000.

Mr. MALONEY. Judge Goodwin investigated as regards the population of every county in every district, and I simply took Judge Goodwin's figures.

Mr. CRANE. Mr. Chairman, I second the amendment of the gentleman from Weber County. I know in the apportioning of the Territory for representatives we did so after giving one to each county, on an exact proportion of population as far as it was possible so to do. I notice since the amendment has been offered here, that in Salt Lake the

judges would have 19,486 of a population to each judge, taking the census of 1890, and Weber County would have 31,187, almost twice as much of a population to the judge, as what the population of Salt Lake County would be for each judge. Taking Davis County, and adding it to Salt Lake County, would then give them 26,007, while Weber County would then have 25,000. It seems to me, Mr. Chairman, that basing the population as it should be for each judge, Davis County should certainly be put in the district in which Salt Lake County is. Salt Lake, Tooele, Davis and Summit would have a population altogether of 78,290, and the three judges would just give them a population of 26,000 each, a few less than Weber County would have.

Mr. VARIAN. Mr. Chairman, I don't think we should disturb this matter now. I don't know of course whether the Weber County delegation is divided upon it, but Davis County speaks. It certainly does not concern Salt Lake County.

Mr. THURMAN. And Morgan also speaks.

Mr. VARIAN. And Morgan. The settlement of all these apparent differences concerning this article during the past two or three days, concessions have been made; and speaking for myself as one of the representatives from Salt Lake County, so far as that county is concerned, we appreciate the efforts that have been made by the gentlemen on the outside to relieve us from the anticipation that we have of a possible fixing of salaries that would handicap us here. We appreciate what we have done to-day. My friend, Mr. Roberts, from Davis County, and I assume with Mr. Barnes, speaks for that county. Therefore, I am not disposed to enter into a discussion of the merits of that question. I hope we will leave it as it is.

Mr. CANNON. I would ask Mr. Barnes whether the people of Davis

County, in your opinion, would prefer remaining as they are now, added judicially to the other district, or would just as soon be attached to the district represented by Salt Lake?

Mr. BARNES. I think, sir, they would prefer to be attached by Weber.

Mr. CANNON. Is the most of their business done, and has it been in the past, in the other direction? I mean court business.

Mr. BARNES. Hitherto it has been attached to Salt Lake. The vote of the population I think of Davis County—the northern part of the county, is growing twice as fast as the southern part and it won't be very long, I think, before there will be two-thirds possibly of the number of inhabitants of Davis County nearer to Ogden than to Salt Lake.

Mr. VAN HORNE. Mr. Chairman, I wish to say in support of what has been said by the gentleman from Weber, that I believe the judiciary committee, democrats and republicans alike, paid no attention to the political phases of the division of districts. I know that there was a figuring on the question of population and of convenience of business and where the business had been accustomed to go, and would more naturally go in the course of trade. I think that in that figuring an allowance was made for a less population for the three judges of the central or third district, from the fact that the business was greater at the capital and the judges would have more to contend with. I don't see that it cuts anything except a political figure as to how this should be divided. If Davis County can just as conveniently be joined to the third district as it can to the second district, it would still have the same proportion practically of population. The third district, under such circumstances, would not be in excess of the number of people to the judge, of the other larger districts. It is a ques-

tion that I am perfectly willing to stay by the report of the committee on.

Mr. THURMAN. Mr. Chairman, I only intended to say a word as a member of the committee, and Mr. Van Horne has—I have forgotten the expression of my friend from Garfield—if I remembered it I would use it; but he has expressed my thoughts. We had harmony in that committee in every respect, except as to such matters as men would naturally disagree upon, and we reached this conclusion after days and days of deliberation, and as far as Weber and Morgan are concerned, as one district, speaking of the amount of work, I do not believe that anybody would pretend that there was more work for a judge in that district than in Utah, Wasatch, and Uintah, considering the distance the judge will have to travel to get there. I trust that we will not disturb this apportionment. If we do it will disarrange the whole scheme of apportionment, and we will be all day to-morrow getting through—

Mr. VARIAN. The day after, too.

Mr. THURMAN. And probably change the entire judicial system that we have brought out, because I will say before taking my seat that there was a strong division in the committee and I see that it has found its way into the Convention or existed here independent of the committee, against the system we have adopted itself. Now, if we get to disarranging this matter, we will open this matter here for a change of the entire system, and have a discussion here probably for two or three days.

Mr. HART. Mr. Chairman, I suggest that the people of Davis County should be entitled to some consideration in this matter in their views as to the district they desire to be attached to. I think so far as possible that each county should be permitted to be attached to that district which most suits its convenience. I cannot see any objection that the gentleman from Weber should

have to the people of Davis doing business in his city or his county, if they wish to. I should think that he would favor any proposition looking to the closer relations between the county of Davis and the county of Weber. I am opposed to disturbing the work of the committee.

Mr. BOWDLE. I wanted to ask Mr. Kimball a question. Of course this Constitution will not fix the place where a suit may be brought. As there will be a district court in each county, that will be the jurisdiction, and there will be no such thing as bringing a suit arising in Davis County, in Weber County.

Mr. KIMBALL (Weber). I understand Davis County constitutes a jurisdiction by itself. I desire to say first of all, so far as I am personally concerned, when I offered that amendment, I did not do it for political reasons. I say, further, that I did not do it because I had an objection to Davis County, or to Ogden City, or Weber County doing business with Davis County. I conceived that the people of Davis County do just as much business in Weber County, if they belonged to the third judicial district, as if they belonged to the second. I cannot conceive then how the addition of Davis County to this district, instead of the second district, would affect the commercial business in any sense of the word. As I understand this Constitution and this judicial scheme, the design of it is to have a district court held in each county, so that the judicial business of the county will be transacted at the county seat of each county; so on the score of commercial relations, there can be no objection to this amendment. I offered the amendment for this reason, that the court at Ogden is now overloaded with business, is behind with its business, and has been for some years. Weber County furnishes at least two-thirds of all the business of the fourth judicial district, as it is now constituted, and if you add to the business of

the district, the probate court and the Morgan County business, added to it, it is certainly sufficient to keep one judge in that district occupied all his time. Since I was on my feet before, I ascertained that the population of Weber County alone as returned by the county statistician is 25,000 and over, so that the proportion as compared with the third district court, is much greater for one judge, than it is in the third district; and my motive in offering the amendment was to avoid our court being behind with its business.

Mr. MALONEY. I would like to ask Mr. Kimball one question. Heretofore, Rich, Box Elder, Cache, and Morgan, were all attached to Weber, and for that reason the docket is behind.

Mr. KIMBALL (Weber). I say with even those counties attached, Weber County has furnished two-thirds of the business.

The amendment of Mr. Kimball was rejected.

Mr. MALONEY. Mr. Chairman, I offer an additional section there as follows:

The justices of the supreme court shall be obliged to give their opinion upon important questions of law and upon solemn occasions when required by the governor, senate or house of representatives.

Mr. RICHARDS. I would like to know what states have adopted such a provision?

Mr. MALONEY. Massachusetts, Maine, Colorado, and a number of others. The reason I offer it is because, when the Legislature asks an opinion of the supreme court that they may have the advice of the supreme court, the highest judicial power of the State, so that they may not make so many mistakes. It has worked well in Massachusetts, Maine, and our sister state, Colorado. I think it is a good provision, and I think we ought to adopt it.

Mr. EICHNOR. Mr. Chairman, I

hope that the section will not be adopted. If the supreme court as a body or individual judges should give their opinion to the governor, senate, or lower house, or all combined, and then if a case arises out of the matter, on which they give an opinion, the man can win the case, no matter if they were in the wrong. I think the supreme court should not act as attorneys.

Mr. MALONEY. It is for the Legislature to legislate. They may want an opinion. They may ask the supreme court to give an opinion on an act, it does not apply to any such instances as the gentleman speaks of.

Mr. EICHNOR. It is an old custom that prevailed in Massachusetts, I do not know whether it has fallen into disuse there or not, but I believe it has. I think our article, in article 22, goes about as far in this matter as it should go. I think that covers the ground fully.

The proposed section was rejected.

Mr. VARIAN. Mr. Chairman, I move we report this article when we arise—

Mr. RICHARDS. I desire to ask the chairman of the committee a question in regard to this article, if I may be permitted. I desire to know what reasons moved the committee to do away with the probate courts as a part of the judiciary system of the State. I had expected at some period of the discussion on this article that that would develop, but as it has not, I desire to know.

Mr. GOODWIN. Mr. Chairman, we found a peculiar situation in this Territory. We found territorial probate judges, for each county. We found at least the representatives of twenty of those counties declaring that their probate judges were not fit to be blown up. They begged us to remove them so that they could get competent men. That was the reason.

Ms. RICHARDS. So as to get more competent men?

Mr. GOODWIN. It was to group the

counties, and have business done with greater regularity and correctness. I consulted with some of the highest judges of the Territory and they informed me that about half of their time was consumed in correcting the mistakes of probate judges. The sentiment seemed almost to be universal that until this State or this Territory was much richer and the outside counties much more populous, it would be infinitely better to adopt the system which worked so well in California, and in Washington, and do away with the probate judges in name and have their work done by the district judges.

Mr. RICHARDS. Mr. Chairman, I desire, after hearing the explanation of the chairman of the committee, to propose an amendment to section 1. I move that the words "in probate courts" be inserted between the words "courts" and "in," in the fourth line of the section. I realize that to question the wisdom of this article, having been reported as it has by such distinguished gentlemen as those who compose the judiciary committee, may be regarded as presumptuous, but at the risk of being so regarded, I feel constrained not only by my own conviction, but by the suggestion of a number of gentlemen on this floor, to call the attention of this committee to what I believe to be a grave mistake that we are about to make if we adopt this system and exclude the probate courts. It seems to me that gentlemen have not fully considered the inconvenience that will result (putting it very mildly when I say inconvenience), from the adoption of this system. And I desire to say at this juncture that if I occupy more than my time, I have the names of several other gentlemen who have yielded me their time. Now, I want to explain first some of the inconveniences that will result from this system in some of the outside counties. Of course you will see it makes but little difference here. So far as I am personally concerned, it makes but little

difference to me, because presumably we will have judges here in this city all the time, but in other counties what will be the effect? Take the district here that extends from Juab to Washington, and what will be the effect of it? The court has to be held in each county once in three months, four times a year. We will say that at the time the court is being held in Juab some man dies in Washington County, an administration is desired upon his estate, no matter how urgent it may be, no matter what the condition of the estate may be, the person there will have to wait three months, or practically that, until the court comes around, before an administrator can be appointed. Then the administrator is appointed; the bonds are filed, the inventory is filed, and the preliminary work of opening the estate is done. It becomes necessary to sell property perhaps for the support of the family, to pay family allowance, or for some urgent purpose. By the time the administrators have got to the point where they can make application for the sale of property the court has gone. They wait three months before the court comes back. Then the court comes back and here is the application for the sale of this property; it grants the order of sale, we will say, notice is then given of the sale of the property; the property is sold, and after the sale has taken place it is necessary that the sale should be confirmed. The return is made to the court, an application is made for confirmation, but the court is off in the other part of the district and another three months will elapse before the court gets back, so that a confirmation can be had of this sale; and there you have a lapse of nine months or practically that, from the time that the man died until you can get an administrator appointed and get an order to sell and get a sale and have the sale confirmed of the piece of property.

Now, I might go on, if I had the time, and you had the patience to listen to

me, all the way through the administration of an estate and you would find that it would work just in that way. You gentlemen who know anything about these probate matters understand just how inconvenient that would be. The same thing would apply to guardianship matters and to all business that would come within the jurisdiction of the court, because you would have no court there in the county except the justice of the peace. Now, it seems to me that it would be a far better system to restrict the jurisdiction of the justices of the peace to say one hundred dollars or one hundred and fifty dollars and retain the probate courts in the various counties, giving them jurisdiction, not only in probate matters, in matters of guardianship, but also limited jurisdiction in civil and criminal matters; give them jurisdiction of misdemeanors; give them jurisdiction in civil cases to the extent of five hundred or a thousand dollars, perhaps, as is the case in Idaho, where the system works very satisfactorily indeed, and perhaps give them jurisdiction in divorce. Let the appeals go from the justices of the peace to the probate court, and let them stop there unless the validity of a statute or the construction of a statute is concerned, and if that be the case let it go directly to the supreme court, or go to the district court, as may be considered best. Then, when the district courts come around, they having law and equity jurisdiction, they can attend to their business, the business is soon performed. The greater part of the work will be accomplished in the probate courts, they being there in session practically all the time. Now, the objection that is offered by the committee is that these men are incompetent—the probate judges are incompetent to perform this work. You, gentlemen of the Convention, know how far that is true; I do not pretend to know; but it does seem to me very singular indeed if there are not men in the

counties of this Territory that are capable of performing this work. I know that the objection has been made and it has been said in this county that we ought to have more competent men for probate judges than we do have, because there are sometimes important matters that come before the probate court. That is true, but, gentlemen of the Convention, do you know, and have you thought, that three-fourths or four-fifths of all the business that comes before the probate courts of this Territory is simply informal matters, matters that are not contested, matters that require no great skill for the determination of them, simply pro forma? Three-fourths to four-fifths of the business, I will venture to say, that is brought before the probate courts and determined by them is business of this very character, that simply requires the following out of the letter of the statute and requires no special exercise of judicial knowledge or skill; and when these cases come on that are contested and these cases of importance that require unusual learning, let the probate judge—if you make your selections well, you will find as a rule, that the judges will give satisfaction even in those cases. But suppose they make a mistake in those cases, then what? Then, you have your district court right there in every county, and that district court can correct that mistake.

I understand very well how it has been inconvenient and difficult to have these mistakes corrected; for instance, take the district that I have been referring to, extending from Juab to Saint George. Now, as I understand it, the district includes counties from Millard to Washington. I cannot understand how it would be very difficult to correct a mistake made by the probate judge of Washington County. If it was necessary to go to Beaver in order to try that case, it would be difficult, but it would be a very small matter com-

paratively to correct that mistake, if the court goes to the county seat, the very place where the first trial was had. It seems to me if you gentlemen will consider the extreme inconvenience that is going to follow from the adoption of this system you will hesitate about adopting it. I say here, in Salt Lake City, where we will have presumably a judge all the time, that the same line of reasoning will apply that will apply in the other counties, for this reason, as I have already stated, from three-fourths to four-fifths of the time of the judge who does this business, if one judge should be set apart for that purpose, will be occupied in simply doing formal work. Now, why should a judge of greater skill and greater learning, a more expensive judge, requiring a greater salary, be employed to do this formal work? It is not necessary. We have got along very well here with the probate judges, and when my friend, the chairman of the committee, says that one-half of the time of the courts have been consumed in correcting the mistakes of probate judges, I want to say to my distinguished friend, that whoever told him that does not speak from the record.

Mr. GOODWIN. It was Judge Barch, Mr. Chairman.

Mr. SQUIRES. He was a probate judge himself.

Mr. RICHARDS. If Judge Barch said that, Judge Barch did not speak from the records. I will guarantee that the records of the court in Salt Lake County or any other district in this Territory will not bear out that assertion.

Mr. GOODWIN. Perhaps I gave a wrong impression of what the judge said; when he was probate judge, more than half his time was taken up in correcting the errors of his predecessors.

Mr. RICHARDS. That is entirely a different thing. I do not understand that we are now going to elect probate

judges to correct the mistakes of their predecessors.

Mr. GOODWIN. I want to call the attention of the Convention to the fact that if Judge Barch was half the time correcting the mistakes, it must have been a terrible record. [Laughter.]

Mr. RICHARDS. I desire to say that if the records of this district or any district in this Territory are examined, it will be found that a very small percentage of the litigation that has occurred in this Territory within the last year or five years has been appeals from probate courts. Every lawyer knows that who is in active practice. We all know it—very few indeed, but what is the fact? The fact is, that these courts are encumbered to-day and the dockets are congested with cases that are sent up from justices of the peace. That is what is the matter. We had here in the district court, at the beginning of the present term, a calendar of 1,300 cases. I am told by the clerk that 240 of those cases were appeals from the justices' courts. Now, I say that those appeals from the justices' courts never ought to go to the district court. They never ought to have come to this district court. If we had any other system by which they could have been disposed of, they never would, and I would have these appeals go to the probate court and be disposed of there, because, in nine cases out of ten—I do not think I overstate, when I say that where these cases are taken up from the justices of the peace, they are taken up for the purpose of consuming time and getting delay. That is the reason. And when they come to trial one party or the other backs down, and the case goes to judgment. That is my experience in appeals from justices' courts. Once in a while, you will find one taken in good faith, but as a rule, they are taken in order to get time, because they can be taken without any considerable cost. So I say that that is not a good reason to say that so much of the time of the

court is taken up in correcting the mistakes of probate judges. It is not a fair statement of the case to say that. Now, in regard to the cost; it may be said here this will be much more expensive than the other method. I say, no, it will not be more expensive; and in that connection I desire to call your attention, gentlemen, again to that which I said yesterday in discussing this question of the judges' salaries, that the expense of the district court does not lie in the salary that you pay to the judge, but it lies in the money that is paid to the jurors that are in attendance, it lies in the expense of the fees that are paid to the witnesses who are in attendance upon the court; those things are what run up into money. As I said here yesterday, we have in this district probably fifty jurors attending court, at two dollars per diem. There is a hundred dollars a day that is being paid out by the Territory every day for the jurors in the third district court, and fifteen or possibly twenty dollars a day for the two judges. Now, what will be the effect as to economy? These district courts, if this system is adopted that we have here, go into a county; whenever the court goes there, there is all the machinery of the court; it must necessarily be there; the panel of jurors will be on hand, not enough simply to try a case, but two or three panels must necessarily be in attendance upon the court, so that when one case is tried and the jury goes out, the panel can be immediately filled. There will have to be twenty or thirty at the least calculation of jurors in attendance upon this court. What does it mean? Forty or fifty dollars per day in expense all the time that this court is engaged in this formal business that I have been speaking about, which, as I say, comprises three-fourths to four-fifths of the time occupied by the probate judge; all the time that the court is performing this formal business that requires no jury, these jurors are sitting there at the

public expense; the witnesses are there at the expense of the litigants, and this expense is going on and accumulating all this time.

During the time that these district courts are sitting in the various counties, then they have all the machinery of the court there; they have their jurors there, and these jurors will have to be paid out of the public treasury. It may be said that it is not right to count in witness fees. Why should it not be, although that is not paid by the public? The fees are paid by individuals, and it is our duty in providing a system here, to consider the convenience and the economy to the individuals as it is the economy of the State at large. And so I say that when you come to consider the amount of expense that will necessarily follow this system and put as an offset to that the amount that you would have to pay to your probate judges in the various counties, because their salaries could be graded according to the work they have to do, you will find, and any man will find, who makes the computation, that the balance is in favor of the probate court system. I challenge any man who will make the computation to deny that. Of course, I could go on and elaborate it, but I have not the time, or else I would give some computations on this matter. Now, as I say; I am told that competent men can be obtained to act as probate judges in the different counties in this Territory, at salaries ranging from five hundred dollars up, men who will do the work and do it right, do it satisfactorily to the people; and I believe if that can be done, so far as economy is concerned, it will be a very great saving, and so far as the convenience is concerned, there can be no sort of question about it.

Mr. SQUIRES. I would like to ask Mr. Richards a question. If the system of probate courts should be adopted in the Constitution, would that involve a reduction of the number of judicial dis-

tricts, and a corresponding reduction in judges.

Mr. RICHARDS. It would indeed, and that was exactly the point I was going to address myself to. I was going to say that in addition to this suggestion that I have made as to the difference between the compensation of the judges and the court expenses that follow from jurors, witnesses, etc., we would also save at least two or three judges. We have here seven. There is no question but what the work can be done by five. I do not know but what it could be done by four. I believe confidently and I assert now that I have no doubt that the work can be done with four judges, because when you take out the business that I have already referred to, the appeals from the justices' courts, and when you give this limited jurisdiction, if you should do it, to the probate courts in civil cases, and in misdemeanors, you will so relieve the volume of work that comes to the district courts that four judges, in my opinion, could perform all the work that is necessary to be done in this Territory and keep the calendar up and go from county to county. I am in favor of that part of the system. I do not ask that they should be eliminated, but I say that we ought to have probate courts and then we ought to have the district courts go around into the various counties and do their work there, and four district judges, in my judgment could do all the work that is necessary to be done in this Territory.

Mr. SQUIRES. Will the gentleman answer one more question? Reading section 1, I found at the end of it these words, "and such other courts inferior to the supreme court as may be established by law." Would not that permit the Legislature in certain counties where they desired it to establish probate courts?

Mr. RICHARDS. I will say to the gentleman that I believe it would permit the Legislature to do it, but I say

that if there is no mention made in this article of probate courts, it will be done by the Legislature as it is done by this Convention, it will be taken to mean to exclude probate courts. That is how they will take it and that is how they will act upon it, and there will be no probate courts established in this Territory. And so, I think, that if there is merit in this system, the system that has prevailed in this Territory for forty-five years and worked so well and satisfactorily, it ought to be retained, and it ought to appear in the Constitution. If there is no merit in it, if this system is a better system, then of course it ought not to prevail, but I think that all sides ought to be heard in this matter, before we determine what is best.

Mr. HILL. I understood you to say that for probate judges a salary of five hundred dollars would be sufficient to compensate for the difference between the district judges at three thousand dollars a year. We have twenty-seven counties in the Territory; at five hundred dollars, that would be \$13,500 per annum. According to the proposition before the committee, the salary of the judges would be \$28,000; adding to this the salary of the four judges, we would have \$25,500. Now, I am simply making this statement as a business proposition. Do you not consider that it would be for the interests of the State to expend twenty-eight thousand dollars and carry out the proposition made by the judiciary committee, in preference to spending \$25,000 by returning to the old methods of having twenty-seven probate judges? Don't you think it would be to our advantage to carry out the purport of the report submitted to this Convention by the committee on judiciary?

Mr. RICHARDS. I certainly do not; if I did I should not be advocating this, and if the gentleman had been here and listened to what I have said, I think his question would have been answered before it was asked.

Mr. HILL. I came in late.

Mr. RICHARDS. I think I have answered the question fully, and I would be delighted to answer it again, but I have no time remaining in which to do it. I do not wish to be understood that each probate judge in this Territory could be obtained for five hundred dollars; I mean that there are counties where they can be obtained for five hundred dollars. I say from five hundred dollars up their services could be had. I say that the saving in expense is not the difference in the amount of salary paid to the judge, but the difference in the court expense that would be incurred by these district courts when they are in a county with jurors and witnesses attending upon them, and they are performing formal work that can be done by a probate judge without a jury. We are in cases, as I have stated, where the expense of the court will be from fifty to a hundred dollars a day. Every day, then, that the court spends in doing this formal work, it does it at an expense of from fifty to a hundred dollars, and that expense could go to offset the difference in salary, and when it is considered and computed, I say unquestionably the balance for economy would be in favor of my suggestion.

Mr. HILL. Could not the clerk in the county perform those duties?

Mr. RICHARDS. No, sir; the clerk can perform no judicial duties.

Mr. EVANS (Utah). I would like to know if you know what the probate judge of Salt Lake County gets—what his office is worth?

Mr. RICHARDS. I do not know.

Mr. HILL. Forty-five hundred dollars.

Mr. RICHARDS. That is fees, you mean?

Mr. EVANS (Utah). I would like to ask another question; if the gentleman's system proposes to change this system, what he proposes to offer in the shape of reduction of district judges?

Mr. RICHARDS. I should reduce the district judges to four.

Mr. KIESEL. I would like to ask Mr. Richards if he would give the probate court criminal jurisdiction?

Mr. RICHARDS. In misdemeanors only, and I think it would be very more efficient service that they would render in those cases.

Mr. KIESEL. The reason I asked is this, was not Congress at one time compelled to take away that privilege from the probate courts of Utah?

Mr. RICHARDS. I will answer that in this way, that the territorial Legislature attempted to confer unlimited jurisdiction on the probate courts.

Mr. KERR. Trying capital cases.

Mr. RICHARDS. Trying murder cases and everything, and it was that that was restricted. The jurisdiction that I am speaking of conferring is conferred by the laws of Idaho upon their probate courts, and there are other states that have the same system that I suggest, and it works very satisfactorily.

Mr. KIESEL. The reason I make the remark is this, that I am afraid we will not get the ability required, and I have seen in Utah farmers acting as probate judges. While I have a respect for them, of course, I would like to see the very highest ability always in a court.

Mr. RICHARDS. I would like to see it too, but it is impossible to get the highest ability and have it always at hand. And my point is that it is a great deal better to have a degree of ability that is somewhat inferior, if in the main it is competent, than not to have these courts accessible at all, and have them absent from you two or three months at a time. That is where the great difficulty comes in, it appears to me.

Mr. CREER. Would you give the probate courts jurisdiction in divorces?

Mr. RICHARDS. Personally, I would have no objection to them having jurisdiction in divorce cases.

Mr. BUYS. I understood you to say

you would cut the judges down to four; is that four judges for four districts? There are nine judges, as I understand it, under this system, with seven districts.

Mr. RICHARDS. I would reduce the judges to five, dispensing with four.

Mr. GIBBS. I would like to ask Mr. Richards a question. When there are no criminal cases on the calendar would it be necessary for the judge to call a jury?

Mr. RICHARDS. It is necessary for the court to be there, and I suppose if it should be found that there were no cases on the calendar it would not be necessary, but I apprehend that there will always be some cases that will require a jury.

Mr. GIBBS. In our county, when there is no case on the calendar there is no jury empanelled at all.

Mr. VAN HORNE. Mr. Richards, could not the court easily arrange for disposing of business requiring a jury before it took up other business?

Mr. RICHARDS. I do not see how it could conveniently do that, coming into a jurisdiction once in three months. It seems to me it would be very difficult for it indeed to arrange business in that way so that it would not conflict.

Mr. GOODWIN. Mr. Chairman, I hope the committee will not consider this proposition. The judiciary committee went over all this ground. You will remember how we apportioned the State, and how we worked it up and how we consulted with the gentlemen on this floor, and then when we got it arranged, and paying the judges the lowest salary that we could conceive, and finally got a bill that we knew this Convention would adopt, we think it ought not to be changed. So, notwithstanding the horrible case that has just been drawn, the wrongs that might possibly be done under this system, this article in itself contains a remedy for any disease of that kind. The first section permits the Legisla-

ture to establish any inferior courts they may please.

Now, the Legislature would be in session for instance before the system is tried two months. Reports can come to the Legislature from the various districts and counties, and any defects can be cured. Again, the expense that we heard of is not in the judges, I admit, with all due respect, but it is, as stated here yesterday, in keeping criminals month after month in prison and in transporting them to some place for trial. Now, there are plenty of gentlemen here who are better horse-back riders than the gentleman who has just addressed us, who will tell him that no two or three judges can go to those counties down south by any present means of conveyance and hold court there every month, so if you want twenty-seven probate judges, if you want at least seven district judges, why all this committee has to do is to refer this whole article back and have us go back to our figures which we made and ignored and call them up. I want to say that I gathered as many of the members of the bar of this city as I could find in a hasty run around town, and with one single exception they approved of this system and thought it would be an infinite improvement on the old one. I want to say that I first consulted with a great many gentlemen on this floor as to what they wanted, and I think the gentleman from San Juan expressed the sentiment of the majority when he said, "Group the counties and give us somebody that knows something." I think if there is any wrong with this it can be found out at once and the Legislature can remedy it, and if a probate judge is wanted for this county, why, then some gentleman will not want it in Weber County, another will not want it in Utah County, and before we get through they will want two in Piute and Wayne. I think this is pretty good. I know how hard you worked

upon it, Mr. Chairman, I know how much breath was exhausted, how much eyesight was used on it, how we renewed our arithmetic in making figures, how we got to be the best geographical scholars in the world in studying this State, to get it so that we could reach every point; and I do not think that a gentleman on fifteen minutes' consideration ought to get up and say that fifteen of us were idiots. If he had limited it to fourteen, the other one would have supposed it was himself and it was all right.

Mr. RICHARDS. May I interrupt you?

Mr. GOODWIN. That is all right. I did not mean to include you. When the gentleman began by praising the ability of this committee, I thought it was a little symphony that he was preparing in order to make the discord which was to follow sound all the harsher. We do not charge him with any bad intent, or harboring any malice, and I am sure, Mr. Chairman, that when that amendment is put, you will hear every no, and if your ears are a little dull to the ayes, you will be forgiven. I trust the committee will let the thing go as it is.

Mr. SNOW. Mr. Chairman, I do not think the committee ought to be in any particular hurry on this question. I had hoped that the gentleman who had just taken his seat would have attempted to enlighten the committee upon how the district courts would answer to the conveniences of the people. I do not desire to duplicate nor to repeat the arguments that were made by the gentleman from Salt Lake (Mr. Richards), in favor of probate courts, but I do wish to say that these courts have been in Utah for a great number of years, that they have been proved to be practicable, and very convenient for all the wants and necessities of the people, so far as their jurisdiction extended; that in giving us a new system, you are overturning an old

one and you are depriving the people of a great many conveniences that the district courts do not give, and cannot give, as he has pointed out, and which nobody has presumed to answer. Now, I want to say for my own county, that we have a very competent probate judge, and always have had, so far as I have been able to remember, and I do not think at any time his salary has amounted to more than five hundred dollars. To-day he does not get more than two hundred and fifty dollars, and yet the work that is carried on in our probate court is of a competent character. Now, probate courts, as we all know, should be open to the people all the time. A bond cannot be approved, whether it be of an elective officer or an officer of a corporation, if the judge has just taken his departure, for at least three months, and in some cases this perhaps would invalidate, if not entirely nullify the actions of the officers whose bonds are to be approved. Everything must be needlessly delayed if district judges are to have chancery jurisdiction, and probate courts are to be abolished. Mr. Chairman, I think it is great inconvenience that the district courts will occasion the people in having probate jurisdiction that my friend from Salt Lake wishes to ask this committee to stop and think about, and especially the members from the outside counties. If we have such a probate court as suggested by him in each county with extended jurisdiction we would practically have no use in our counties for a district court. I do not think, since the collapse of Silver Reef, that we have ever had a case of any magnitude—that is any civil case, that would not be covered by the jurisdiction of a one thousand dollar limit. Very seldom would we have any criminal case that the probate judge could not try, and if we had a visit from a district court at least once a year, it would be all that we would require in our county for many years to come.

Speaking from the experience that we have had, I say that probate courts would be a greater convenience to our county than this system, and I therefore favor it.

Mr. MALONEY. Mr. Chairman, Judge Goodwin, as chairman of the committee, sought information from every source possible on this subject, from every delegation I believe in the twenty-seven counties in this Convention. When we first started in to transact this business I submitted a plan similar to that asked by Mr. Richards and Mr. Snow, only for a superior court instead of a probate court, grouping the counties into twos and threes, with probate jurisdiction and enlarged jurisdiction, giving the superior court jurisdiction of civil matters up to a thousand or fifteen hundred dollars, and of all misdemeanors. When we got to discussing that plan before our committee, I saw at once that there were objections to it, that it could not work well. Finally, after getting light from every source possible, we arrived at the plan that the committee has reported here unanimously. We have endeavored to give the counties each a superior order of judge, judges who were competent to transact all the probate and district business, to dispense with the twenty-seven probate judges and give them a very much higher order of ability. Now, my friend from Salt Lake and my friend from Washington seem to be of the opinion that the object of this article is to give them a probate court once every month in each county. That is true. You will see that the judiciary article says that at least four times a year—and if necessary the object of every member of this committee is to have a probate court once in every month in each county of this Territory. The suggestion made by the gentleman from Washington, that if the judge had just left, perhaps it would be three months before an administrator's bond could be approved—

that is a matter of moonshine. The district judge could do it wherever he was and send it back. There is no law that I know of requiring court to be opened and a bond approved there. If we have a district court with probate jurisdiction once every month, it strikes me that the wants of the people can be supplied.

Mr. RICHARDS. Will the gentleman be kind enough to explain how it would be possible for the court to be in session in each county once a month? Take for example the district consisting from Juab to Washington County?

Mr. MALONEY. The idea was keep him going from one county to another every month. I am glad you suggested that, because that district formerly as we framed it consisted of nine counties, and when we got information from the gentlemen who were familiar with the cow trails out in that country, we found that one judge could not visit every county once a month; hence we divided it into two districts and gave them two judges, so that a district judge may be in every county in the district once a month.

Mr. RICHARDS. You say then that a district judge can travel from Juab to Washington and hold court in four different counties every month?

Mr. CHIDESTER. He don't have to go from Juab.

Mr. MALONEY. He don't have to do that. The object is to have him once a month in each county for probate business. He would not need to be there more than two hours.

Mr. RICHARDS. If he is in each one of those counties every month, would not he have to travel from Juab to Washington?

Mr. MALONEY. That is true, and he can do it.

Mr. RICHARDS. And hold court and do the business of the district?

Mr. MALONEY. Why, Mr. Chairman, he can do all the business in two hours. No trouble about that. Then again,

the Legislature can re-establish this probate court if they like. It is such other inferior courts as may be established by law. Mr. Richards goes on and insists on appeal from justices' courts to the probate courts. We do propose anything of that sort. I do not wish to take up the time of this committee, but Mr. Richards suggests that there will be a vast expenditure because of the number of witnesses and jurors in attendance. If the district court is competent to transact business, there will never be such a thing as a crowd of witnesses waiting. Certain days will be set apart for probate court business and district court business, and there will not be any witnesses or jurors in attendance when the case comes up. When the court comes into the county, it can transact all the probate business in the county, making a fair average in two hours. Then, it can go on and attend to the district court business. So there will not be any delay such as contemplated by the gentleman from Salt Lake. Now, if this plan is to be adopted you might as well rip up this whole report from beginning to end, because we went upon the theory that we would give them a better class of judges and have them come if necessary once a month.

Mr. MURDOCK (Wasatch). I would like to ask the question of the gentleman from Salt Lake—what qualification he considers probate judges should have?

Mr. RICHARDS. I think they should be men of good sound judgment and experience and have some knowledge of law.

Mr. MURDOCK (Wasatch). Do you think they should be admitted to the bar?

Mr. RICHARDS. Well, I would not say that it was necessary in every instance. Perhaps in a majority of cases I should say that was not necessary.

Mr. MURDOCK (Wasatch). Do you think it would be a proper thing to give

a man that had no experience of law, of good judgment, probably a good shoemaker or a good farmer, jurisdiction in a case where the amount was a thousand dollars and in criminal cases up to a felony?

Mr. RICHARDS. Well, I am not prepared to say that I would. I do not presume that any such man would be elected to that kind of a position.

Mr. MURDOCK (Wasatch). In the system that you propose, would you not provide that the judge must be a member of the bar if you adopt that system?

Mr. RICHARDS. I do not know that I would provide that. I think that the judgment of the electors might be properly exercised on a matter of that kind.

Mr. MURDOCK (Wasatch). It appears to me unquestionably that this Convention should provide in the Constitution that a probate judge who is to have this extended jurisdiction that our friend proposes, in civil and criminal cases, would certainly have to have some qualification. This is a progressive age. In times past we had school teachers that had no particular qualification. If the school teacher was a moral man and had a little knowledge, he was engaged. But since that time we require that they shall have some qualifications. There is a board of examination in every county, and we are more strict in the employment of school teachers than we were twenty years ago.

If we are progressive in one line, it seems to me there should be some progression in another, and that we should have more competent men for probate judges than we had twenty years ago. It seems to me there would be no question but what if that system should be adopted, we would provide that they must be admitted to the bar, and most likely in the supreme court of the State of Utah, and that being the case, the gentleman has conceded that in the

smaller counties we can get judges that are qualified for this position at a salary of five hundred dollars. Now, taking it for granted that you can get judges for twenty-two of the smallest counties in Utah at a salary of five hundred dollars, that would amount to eleven thousand dollars. Then we have five other counties, we will place the salary of the probate judge in Cache County and Sanpete at fifteen hundred dollars per annum and in the county of Utah two thousand dollars, Weber, two thousand, and Salt Lake at three thousand dollars, which probably is less than they are now receiving in the counties of Salt Lake, Weber, Utah, and Cache. The gentleman states that if we have a system of probate judges in the Territory it will only require five district judges, paying them a salary of three thousand dollars would amount to fifteen thousand dollars, making a total of thirty-six thousand dollars per annum for that system of judges.

Now, the system which has been reported by the committee on judiciary provides for nine judges, paying them a salary of three thousand dollars each, a total of twenty-seven thousand dollars and it would give us an opportunity to increase those judges three, making twelve judges at a salary of three thousand each to equal the system which the gentleman proposes to give us in lieu of the one presented by the committee on judiciary. Now, it seems to me that if economy is an object, and good service, that we could accept the system providing for nine district judges, and if, in the opinion of our future Legislatures, nine judges are not sufficient, they can very easily increase the number to twelve, which would not be any more expensive than this system of twenty-two judges at five hundred dollars, and the others in proportion as I have stated. There is no doubt but what we will all concede that in all business enterprises and transactions

we want to get the best. There is an old saying that a man wants but little here below and he wants that little good, and I think that is applicable to law. We want but little of it but what little we do get, we want good, and for one I am in favor of what law we get around in the outside rural districts, that we have the very best that is to be had in the Territory, and for that reason I believe that nine judges can give us about all that we will want. [Applause.]

Mr. IVINS. I just wanted to say, gentlemen, if the idea prevails that all the members of this committee have been consulted in regard to this question and approved it, it is an error, because I have been continually opposed to this experiment that we are about to try. I have done a little figuring myself, and I believe that from a standpoint of economy, the present system of probate courts will be far in advance of the system that is proposed. Now, some one suggests that a court be held in each month in every county of these districts, a man would have to travel six thousand miles to hold a court in each of these counties in the five counties which embrace my district. That is out of the question entirely. I believe that a probate court should always be open. I have had considerable to do with the closing up of estates and I know that it will be a very great inconvenience if only once in a quarter people can reach a probate judge for the approval of papers and for consultation. There is never a day passes probably in any county in this Territory that the probate judge is not consulted. Executors and administrators of estates are not attorneys, and it is almost a necessity that they shall have the ear of the judge at the county seat at any day when they chance to be there, especially people living away from it.

I feel very delicate about attacking this proposition that has been returned from the committee, because I am not

altogether familiar with its details, but I can tell you that this is a question that the is worthy of serious consideration of the members of this committee, and personally, I believe, that from a standpoint of economy, we had better place a probate judge in each county. In the district in which my county is contained, we can pay five men six hundred dollars per annum each, and then the sum would only equal the amount we propose to pay to the district judge, and I am of opinion that that is double what those men are receiving to-day on an average—that is, the probate judges in that district; and there are competent men there, just as competent men for probate judges as we can get for district judge. We have to choose a district judge from that district, and really it appears to me that the expense attendant upon these district courts would be so much greater—a case comes before a probate judge—a criminal case; he can get out and empanel a jury right in the town where it is being tried, with little expense, and I apprehend, particularly if you are going to pay this man mileage who has got to travel these thousands of miles in order to hold his court, his mileage, if some mathematician will figure it up, it will be found to amount to considerable during the year. So that all things considered, I am in favor of the motion of the gentleman from Salt Lake, and if it should prevail, I would move to refer this matter all back to the committee with instructions to furnish us a probate judge in each county and four or five district judges, and we will get along with four less judges and with greater convenience to the people.

Mr. GIBBS. Would you recommend that the districts be conducted the same as they are now—the people go to the courts in place of the courts going to the people?

Mr. IVINS. That would be a question for after consideration, of course. I would not propose to destroy this

whole plan without giving some other plan careful consideration. I should propose that the district courts went to the people occasionally, as often as necessity required, but I don't believe that we need a district court in Washington County once in two years on an average, if you will give us a good probate judge with jurisdiction in civil cases to a thousand dollars.

Mr. GIBBS. What would you do with your prisoners in the meantime?

Mr. IVINS. Why, we will send them before the probate court.

Mr. CREER. The chairman of the committee has remarked that the best legal talent obtainable here in Salt Lake City and probably elsewhere, were consulted by the committee before they framed this article upon this important matter. Now, I understand from one of my colleagues that the legal gentlemen of our district are in favor of the old system, but I want to say just a few words upon the matter of expenses. I do not propose to compute it by way of salaries, but I do say this from experience, that there is more expense incurred by appeals that are taken—it may not be so in Salt Lake City, but it is so in Utah County—more expense incurred in the courts by appeals from justices of the peace than would pay several of the judges' salaries. We have in a city of 3,000 inhabitants, had but one case appealed from the probate court to the district court in twenty years, so that it seems to me there is something in this matter suggested by my friend Mr. Richards, from Salt Lake. By giving extended jurisdiction to the probate courts in civil cases and misdemeanors, and by cutting off the appeals from justices' courts—I suppose you mean also from cities as well as precincts—unless the validity of a statute or city ordinance will be in question, the cases will stop there; it seems to me this is a very important matter to consider, and I think that the proposition is worth our time in look-

ing over this question as to the saving of expense, because if you cut down the jurisdiction of the justices of the peace to one hundred dollars, a great many more cases will be tried before the probate judge and will be better tried, not only in two or three counties, but a great many of the counties. We would have men that were competent members of the bar as probate judges. I believe that a probate judge should understand something about law. The surrogate branch is a branch that ought to be considered. This is worthy of consideration. I hope you will not bring this matter to a close to-night, there is not a full attendance in the committee, and we should not hurry it through. I speak from my own experience. There are two-thirds, I was going to say, of the cases that are tried by the justices of the peace in our county that are not properly tried, and when they are appealed they are reversed, there are so many mistakes made by justices of the peace; then by placing a competent man in each county it will obviate to a large extent that matter. It would curtail the expenses a great deal.

Mr. CHIDESTER. Mr. Chairman, I have been heretofore in favor of probate courts, but since this system has been reported from the committee I have been weaned somewhat from the old system, and have been inclined to be willing to try this new system, believing that the system could be changed by the Legislature, if it was found necessary. Now, our conditions are not similar to those in Washington County, as stated by Mr. Ivins. He says that they would not have any use for a district court there once in two years. We have as little use for a probate court, but we have grand larceny cases continually. [Laughter]. It is that kind of cases that we wish to handle, and I undertake to say that to give the probate judges jurisdiction in misdemeanor cases will not help us at all.

I think that is a mere sham. The justices of the peace can handle them all right, and if they do not, why they will come to the district courts, and there are not many of them from our country that ever get in the district courts anyway. But, I find that the expense has been made by the traveling of witnesses and jurors, and if this old system is returned to, or if we establish probate courts, we have got then to reduce the number of district judges, and they will not be able to travel around these districts often enough so but what the criminals will have to lie in jail, or we will have to travel to the district courts. Already our county has been compelled to keep criminals until the expense has been enormous, and we have been almost unable to meet it, and I now believe that we can afford to try the new system, for I believe that the Legislature would be perfectly willing to modify it if they found that the judges could not travel around as contemplated, but if they can get around as the committee contemplates that they can in these districts—and I submit that in our district I believe they can; I am not speaking, however, for other districts, but if they can do that, I am satisfied that the expenses will be much less than to establish probate courts. Of course, as I said before, we have but very little probate business, and that may make some difference. The other counties may have more, but for all of that our probate judge perhaps receives over three hundred dollars. In figuring it up that was about what we estimated it at, and that is one of the smallest salaries received by probate judges, and if you establish twenty-seven probate judges and compel the people to run to the district courts again, then I say you might just as well return to the old system, and that is going to be expensive, that is going to compel the witnesses to travel and the jurymen to travel for the district court, and there is thousands of expense

which this new system will do away with.

Mr. EVANS (Utah). Mr. Chairman, this is once I am going to stand in straight with the committee that reported this article. I am generally on the other side. However, I am in favor of trying this new system. There are two phases to be considered in this matter. One is economy, and the other is efficiency. I have gone over this thing carefully in my own mind with the best information that I have had at hand, in regard to the question of economy, and I am fully converted to the idea that the present system will be far cheaper than the old probate system that we are just going to leave behind us. I came here in favor of the plan proposed by the gentleman from Salt Lake, to retain the probate judges and to increase their jurisdiction and give them some criminal jurisdiction, but I have been forced from that position by argument that has been made to me by gentlemen of this Convention. I have figured that it would cost us upon an average of a thousand dollars to each county. Salt Lake, I have been informed before to-night, and it has been reiterated here to-night, that the probate judge here costs in the neighborhood of five or six thousand dollars. Perhaps in Ogden it costs from two to three thousand dollars, Utah County in the neighborhood of two thousand dollars, and taking it all in all, I have concluded that about an average of a thousand dollars to each county is correct. It has been suggested here to-night that the probate judges ought to be men learned in the law. It was suggested here that they would have in most cases a man who was competent. I want to ask you, gentlemen, what reason can be given, that if it is necessary that a man should be competent to transact the business of these larger counties, that it is not just as important that the business in the smaller counties should be transacted equally as well? It has been remarked

here by the gentleman from Washington that perhaps every day the probate court should be consulted by some person, administrator, or guardian, or otherwise. If you are to expect such a system as that, can you confine the fees, or in other words the salaries of those probate judges, to five hundred dollars in these small counties, as we have been figuring upon? I don't think you can, and I say that it is important that this system, whichever way it shall go, should secure efficient service in carrying out the various operations of the law. I have figured that if we shall take off four judges, which I think would be the very least that we can take off, with their salaries as fixed now at three thousand dollars, amounting to twelve thousand dollars—taking that from the twenty-seven counties at one thousand dollars each, and I do not think that we can hope to place our probate judges—that is people to do the work, even as it is done now—at a less salary than that; it will be a saving to the district or to this Territory of fifteen thousand dollars. Then in addition to that we are providing now a new system, as I have understood it, that the county clerks shall be clerks of the district court, and if that shall be inaugurated, I believe there will be equally as great a saving in that point.

It has been referred to here by the gentleman from Salt Lake that they would gather together witnesses and they would gather together jurors, and they would remain there for days with nothing to do, making the comparison with the expenses accruing from that source—would be greater than the judges. I submit to you that that is not necessary. Those terms will be set. The jurors will be summoned there, witnesses will be summoned there; those cases that require the service of a jury may be taken up and disposed of, each in its turn, and then the jury discharged, and then the court will proceed to act upon equity cases, or take up its pro-

bate business and do away with that in its turn. Now, sir, I submit to you that these clerks may be properly authorized to post up notices. These are orders that may be sent to the probate judge. It is not necessary that he should reside in the county while he does the signing. I submit to you also that bonds could be forwarded to him. It is so to-day in our counties; in every town outside of Provo in the county in which I live, we forward our bonds there by mail to the judge, and they are there filed, and it can be done in the other case. It would only be a question of a little trouble to him, perhaps, in preserving those bonds until he went to the county seat in the county from whence the bonds came, and there they would be placed upon file. I submit to you, sir, that it is important that these things should be tried properly. I venture the assertion now that if we were to go out in these outlying counties and go carefully into the record of the sales that have been made there of real estate, I would not miss it if I were to say that half of those sales were illegal and void, and it is only a question of time until these matters will be forced out into the poor counties as to-day they are being forced upon some of the populous counties. I have had the sad experience of being connected with a corporation myself that to-day is involved in litigation, and when we came to test our articles of incorporation, we found that we were not a corporation at all. This is the condition, and a great many of these things, when they are looked into and carefully examined, when they are placed upon the test and weighed in the balance, they are found wanting, and I say that we cannot afford to not undertake this system. I believe it presents the phase before this Convention that appeals to every judgment that it ought to be inaugurated and established. It is not as the laws of the Medes and Persians. We provide in our Constitution that the Legis-

lature may reduce the number of judges or they may increase them if they shall find that the system is not a proper one, and they have the power to establish other inferior courts, and then they can establish probate courts and inaugurate the other system. But I believe we ought to give it a trial. I am in favor of it from first to last, so far as I have been able to comprehend it; there may be some minor changes. I say that I think it would have been much more prudent before we had spent perhaps a whole day upon this question, as we have done, that this amendment should have been introduced at the reading of the first section, and I hope that this committee will say to their sub-committee—the committee on judiciary, that they have drawn a good article and it will be passed upon by this committee as reported by them.

Mr. BUYS. Mr. Chairman, there are one or two things that have not been touched upon yet that I would like to call attention to. I am in favor of the system as reported by the judiciary committee. I want to call the attention of the committee to section 7. (Reads.) Now, if there is anything that is really necessary that should be done, that we cannot wait until the term comes around, a man can be appointed to look after this case. I do not think there is any necessity for having a probate judge in every county.

Mr. RICHARDS. Suppose that one party thinks it necessary that it should be done and the other party does not, then how are you going to get your judgment?

Mr. BUYS. Well, we can get it when the term comes around.

The amendment of Mr. Richards was rejected.

Mr. FARR. Mr. Chairman, I wish to offer an amendment to first section:

Until otherwise provided by law, the judicial power of the State shall be vested in a senate sitting as a court of impeachment, the supreme court, district court, and justices of the peace.

That, gentlemen, will give the Legislature an opportunity; when they have tried the experiment and it does not work to suit them, they can go to work and change that and appoint probate judges.

Mr. THURMAN. Mr. Chairman, I arise to a point of order. The amendment is not seconded.

The point of order was sustained.

The committee then rose and reported as follows:

The committee of the whole has had under consideration the article on judiciary and has recommended that the same be placed upon the calendar for its third reading.

Mr. SQUIRES. Mr. President, I move that the judiciary article be made a special article for day after to-morrow.

The motion was agreed to.

On motion, the Convention then, at 10:08 p. m., adjourned.

FIFTY-SECOND DAY.

WEDNESDAY, April 24, 1895.

Convention called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Barnes of Davis County.

Journal of the fifty-first day's session was read and approved.

File No. 377, signed by David Peebles and 15 others, from Roy precinct, asking that woman's suffrage be submitted as a separate article to a vote of the people, by Adams, of Weber.

Filed.

Committee on manufactures and commerce reported as follows:

Committee Room.

MR. PRESIDENT:

Your committee on manufacture and commerce, to whom was referred files No. 144, proposition for insertion in the Constitution article on the metric system of weights and measures; 148, proposition to protect manufacturing busi-

ness against losses sustained, provided prohibition should be inserted in the Constitution; 47, to regulate and license the manufacture and sale of fermented, vinous and spirituous liquors, beg leave to report that we have had the same under consideration. We have carefully and thoroughly investigated each proposition submitted to us, and found nothing that we could recommend to be embodied in the Constitution. We refer the same back and recommend that they be filed.

HYDE, Chairman.

On motion of Mr. Eichnor, the report was adopted.

The Convention then resolved itself into committee of the whole, with Mr. Varian in the chair, and proceeded to the consideration of the article entitled mines and mining.

COMMITTEE OF THE WHOLE.

Sections 1 and 2 were read.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the word "coal," in line 3.

Mr. KEARNS. Mr. Chairman, I hope that motion will not prevail, for this reason: In 1891, the Congress of the United States took it on themselves to appoint a mine inspector in every territory in the Union to look after coal mines alone. They did not go into the quartz mines or other mines. It was the danger of life that surrounded the coal mines that they thought was necessary to have a mine inspector for. The quartz miners of the Territory have not asked for anything of this kind. All the circumstances that surround all those accidents occur in the coal mines. It is unnecessary altogether to have it in there.

The motion was rejected.

Section 3 was read.

Mr. MALONEY. Mr. Chairman, I move to strike out section 3. That same question was passed upon by this Convention, and the judgment of this Convention was that private property could not be subjected to private uses.

Mr. HART. Mr. Chairman, I am in favor also of striking out this section.

We devoted some two or three days to the discussion of this question when it came up as a proposition in the bill of rights. Members of the committee may remember at that time that I favored a section declaring the rights of way for purposes that are named in this section, and also the rights of way for irrigation purposes and drainage to be declared public uses. I would have been glad at that time, if I could, of determining by a section of our Constitution that these things were public uses, because I thought that it would be better for us to define what were public uses, or at least specify that these particular purposes were public uses, than to leave the matter to judicial determination by the courts. But inasmuch, Mr. Chairman, as after a full consideration of that question at that time, it was the sense of this Convention and of this committee that we should simply declare that the right of eminent domain should exist, leaving the courts to determine what was a public purpose, I am now in favor of striking out this section. I do not think, Mr. Chairman, that we should give mining any greater preference in this State than the interests of agriculture. I think myself that the courts will be obliged to decide that rights of way for tunnels, flumes, pipes, ditches, roads, tramways, or dumps or the drainage or working of mines are a public use. I believe that they will also be obliged to declare that the rights of way for irrigation and drainage purposes connected with agriculture are a public purpose, but inasmuch as we have left the one matter to the courts, I think we should leave the other matter to the courts also. I am, therefore, in favor of giving no preference to mining over agriculture. It would mix this matter up. It would be declaring certain purposes here a public use; perhaps by the very fact that we insert this in the Constitution, the construction of the courts would be that rights of way for agriculture were

not public purposes, otherwise we would have designated them in the Constitution; in order to make a uniformity in the matter, in order to give no preference to one of these great branches of industry over the other, but permit both, as I think by judicial construction, to have the rights that we desire for them, I am in favor of leaving the matter to the courts and striking out this section.

Mr. ANDERSON. Mr. Chairman, I am opposed to the motion. It is very necessary that it remain. Mining is one of the most important industries of our State and always will be. It is likely to grow in importance and it is subject to the control of the Legislature. I think these should be declared public uses. There are certain limitations put upon them by the Legislature, and in order to protect one of the greatest industries of our State, I think that this section should be retained. Therefore, I shall vote against striking it out.

Mr. KEARNS. Mr. Chairman, I hope the motion to strike this out will not prevail. I notice that every man that wants to leave it to the courts, his profession is the courts. There is not one practical man on this floor who opposes this section. While it was ably opposed in the bill of rights the other other day, and the fundamental law quoted to the whole of you, it was said that the courts would hold that it was a public use. I find here, in Lewis on Eminent Domain, that while it was held in Connecticut and in Massachusetts and New Jersey, that Iowa, Kansas, Maine, Nebraska, Minnesota, Wisconsin, California, Pennsylvania, and West Virginia, have held to the contrary. I believe the other day, in the state of Nebraska, that the question came up of putting through a great irrigation ditch there. They went to the legislature to pass on it. The legislature themselves held that the Constitution gave them no right, and therefore they could not receive it.

Now, no doubt from the statement that was used here the other day, it was the only industry they had. Everything gave way to the mining industry, and as quick as their industries went down—their mining industry, what was the consequence? They left them with forty thousand people. The mining industry controlled the state, and the gentleman said we should not give mining any more than we give agricultural industries. I agree with him, and I am very sorry that the agricultural industry did not condemn the rights of way for their channels and flumes. If they some day will be confronted with the same state of affairs that they are in Nebraska, with six counties poverty stricken with drouth, and they want to take a river along down through there and they cannot make a move until such time as the Constitution is amended, they will wish they had.

Those gentlemen that are so ably opposing this proposition know more about the necessities on the snowy white cliffs of the Wasatch range by what they read about it or by what somebody told them. They never were up there and developed any mines. If they go up some canyon for miles and there discover a mine and start a road that is going to give them a roadway into the city, and where the ground is no use to anybody on earth, they will have the practical part of it, and can speak from a different standpoint. This is a necessity—a necessity that the fixed industry of this State must have. I take it that that is the main enterprise of the State and one that goes to make it one of the greatest intermountain States in this Union—is the mining industry. And, gentlemen, I trust that there is not one of you who wishes to throw a stone in the way of that grand industry, because you have hundreds of square miles of rich mountains with untold treasures of wealth that will conquer the generations yet to come.

Mr. BOWDLE. Mr. Chairman, I am one of those gentlemen that do not know anything about mining. I will confess that, so the gentleman's remarks in that regard apply with all their force upon that proposition; but this is a proposition that we have already passed upon. We passed upon a broader proposition that included this. The proposition that we passed upon was taking of private property for other than public uses. Now, it was sought to make all these things a public use. We had that question up and discussed it before, so as to get around that theory, that you cannot take private property for a private use. I submit, gentlemen, it does not make any difference what you call it, it is the same thing. You may declare that a man that owns a little mining claim up here has the right to go across his neighbor's claim and that that right is a public use. That does not make it a public use. What is a public use? A public use is one which benefits the people generally, not where it is an individual matter. This would be in all probability where there would be one individual against another individual. How can you call that a public use? A man owns a mine up here—one single man owns a mine. A man right next to him owns a mine. Now, would you have this Constitutional Convention declare that it was a public use for that one man to go across the other man's land and take his property? That is what you would have this Constitutional Convention do. We said once most emphatically upon that question, "We won't do that thing." We said that when it was included in it, that it should be for the benefit of agriculture. Now, it is reduced down to the one single thing of mining, and I agree with the gentleman from Cache County, that if this goes into the Constitution, you thereby fix a limit and no court would say that any other thing was a public use—that agriculture was a public use,

that you could build a flume and that was a public use, unless that included the benefits to a large proportion of the area of a country. It might be in a case like that. I think there was a case that was decided in one of the courts, probably of California, where the question came up, and the question was where there were a great many people that were interested and would be benefitted by that, that the court would then declare it a public use, but I have never known a case—and I looked this matter up before it came up on the other question. I could not find a single case where it was one man against another man that the court would declare it a public use. I am opposed to this. I am opposed to it, because it is class legislation. That is the reason I am opposed to it. I recognize the great importance of mining in this country, and I would not strike a blow that would injure it in any way, unless it was necessary for the protection of the individuals of the State and the individual rights. The right to hold and own and control one's own individual property is above every other consideration, save and except that of the public use. This is not that kind of a case at all. I am opposed to it.

Mr. KEARNS. Do you take notice that Colorado, Idaho, and Montana, the states that surround us here, with the same state of affairs that applies to us, have a section of this kind in their constitution—they found it necessary?

Mr. BOWDLE. Has the court ever construed those?

Mr. KEARNS. In those states that I have mentioned—Iowa, Kansas, Maine, Minnesota, Nebraska, Wisconsin, California, Pennsylvania, and West Virginia. If you fail to find anything, you can post yourself up.

The CHAIRMAN. The gentleman will confine himself to a question. We cannot allow this discussion.

Mr. PARTRIDGE. Mr. Chairman, I would not wish to say anything, if I was sure that the Convention would stand to what they have already decided. The gentleman from Summit says that no practical man has spoken upon the subject. I think that anyone that is acquainted with me will admit that I am a practical man. While I do not pretend to know much about mining, I am willing to admit that the mining interests of this Territory are of great importance. But I am not willing to admit that they are of the greatest importance. Now, I am a farmer. My friend over here is a miner, I presume, and I hold that the farming interests of this Territory are the foundation of the prosperity of this country, or any other country as far as that goes, and that the mining interests would be but little without the farming interests to support it. And inasmuch as we have heretofore decided that there should be no provisions of this kind, depriving the agricultural interests of any privileges, rights of way of any kind, declaring it to be a public use, I shall vote for the striking out of this section unless it can be amended as to include the agricultural interests. I am not willing to make the mining interests the first and foremost to the expense of the agricultural interests of this Territory.

Mr. EICHNOR. Mr. Chairman, I am opposed to the motion to strike out this section. I also wish to be understood that I am not antagonistic to the agricultural interests of the State or Territory of Utah. I think we have made a grave mistake when we strike out the section that made the public use of these matters. Possibly we were right in striking out the section that private property might be taken for private use. It should have been declared a public use. Now, when it comes down to a practical man, I have had experience in farming. I have had experience in mining until my money

ran out. I am not engaged in mining at present, and I am glad of it. Now, I think that this section ought to stand, and when the report comes in from the committee on schedule, future amendments, and miscellaneous, that under the head of miscellaneous we should insert a clause putting the agricultural interests of this Territory on a par with mining. Let the two stand on a par with each other. It is not worth while for us here to fight against mining in one sense of the word and against farming in the other. The two exist in this Territory and they are two great interests. Now, this section provides in the latter part that the uses which are declared public are subject to the control and regulation of the State. That certainly means the Legislature. I think instead of being dangerous it would be beneficial to the mining interests, and certainly it would work no harm to the farming interests. It is a fact, the more mines you have in this Territory, the better market has the farmer for his products. The states that have prospered the best in the United States are those where great mining interests and great agricultural interests exist. I hope that the section will be retained.

Mr. Kearns hands me Lewis on Eminent Domain, and requests me to read a certain section. I do not know what it is, but I will read it:

The taking of land for water power, for running any kind of mills or machinery, is held to be for public use, and principally Connecticut, Indiana, Massachusetts, New Hampshire, New Jersey, and also by the supreme court of the United States in a case which went up from New Hampshire. The constitutionality of acts for this purpose has been seriously questioned, but nevertheless upheld either on the ground of authority or under a general acquiescence and uses in Kansas, Maine, Minnesota, and Nebraska. On the other hand such acts have been held unconstitutional as authorizing the taking of private property for private use, save in case of public grist mills, in the state of Alabama.

Mr. BOWDLE. The section you have read is where it applies simply to milling, isn't it, and in no way connected with mines?

Mr. EICHNOR. The section refers to milling. Here is one on mining:

On the other hand, the validity of such laws has been denied in California, Pennsylvania, and partly so in West Virginia.

I presume that what Mr. Kearns desires to bring before the committee, is that since these matters are declared public uses the courts cannot declare them otherwise. I think that is the idea.

Mr. ROBERTS. I would like to ask Mr. Eichnor a question. I see that the last clauses of this section declare that this matter is subject to the control and regulation of the State, which I understood you to say meant the Legislature, of course?

Mr. EICHNOR. Yes, sir.

Mr. ROBERTS. I would like to ask if the settlement of this question when under discussion in the bill of rights does not also leave not only these necessary uses of lands, etc., in regard to the mining industry, but also to agricultural uses arising upon this same principle—if that is not at present also left with the Legislature?

Mr. EICHNOR. My answer to that question is this, that in some states when they had no constitutional provision of this kind, they have enacted statutes and some courts have upheld them and others have declared them unconstitutional, and I think we would be confronted with the same thing in Utah, that if the Legislature passes a law declaring certain mining interests and certain agricultural interests public uses, it is a question what the supreme court of the State of Utah will do, that is, the question will be, is the statute constitutional or unconstitutional?

Mr. IVINS. Mr. Chairman, I hold in my hand a corrected copy, as I under-

stand it, of the bill of rights. Section 22 and 23 read as follows: (Reads.)

The CHAIRMAN. That is all stricken out—section 23.

Mr. IVINS. That being the case, I see all the greater necessity for the approval of section 3 as it has been reported from the committee on mines and mining. Section 22 of the bill of rights provides that private property shall not be taken for public use without just compensation first being made. Now, if I understand the design of section 3 of this report of the committee on mines and mining, it is simply to define that the right of way for tunnels, flumes, pipes, ditches, roads, tramways, or dumps, for the drainage or working of mines, shall be a public use, not to be obtained by any corporation or individual for its own special use or benefit, but may be declared by the Legislature to be a public use. I cannot see how this can possibly come in contact with any agricultural interest in this Territory, but I do know from my own experience that it is necessary that some such declaration shall be made in this Constitution in order that the mining interests of the State may properly be developed. Men secure titles to ground in the neighborhood of valuable mining property. Mines are located in narrow, inaccessible canyons upon the top of almost inaccessible peaks, and it is an easy matter for a man by locating fifteen hundred feet of mining ground to absolutely obstruct any approach to that property. A locator of such ground would be amply protected in the section which I have read, because that provides that this property shall not be taken from him without just compensation first being made, but do not let us give to the Legislature the power to declare the necessity of that road to be a public one and to condemn it for that purpose, after just compensation has been made. It may be said in regard to a drain tunnel, which may be necessary for development of a

mine—it would be absolutely necessary to have that right of way in order to develop it. I do not think it is a good argument to say that because similar privileges were not granted for other purposes that it shall not be granted for mining purposes in case it shall appear to the members of this committee that this proposition of itself is a good one. The fact that the same thing has not been granted to some one else is no reason why we should not grant it to the mining interests of the Territory. To my mind it is proper, just, and very necessary, and I hope that it will be retained.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee, I am very much opposed to the striking out of section 3. I think it is absolutely necessary in the interests of mining, for this reason: My friend from Washington County brought forth the arguments to a great extent that I wished to in regard to the condition of the country in which mining is carried on. I think that it is not illiberal and an interest in the mining interests should be entertained by the people generally in regard to extending more than you would to the agricultural. Still, I am not a miner, but I am a farmer, and I do not think it would impair my rights in the least, nor any other farmer's. As my friend from Washington County has stated, the character of the country that mining is carried on in is very different from agriculture. And let us look at it. I do not recollect in part or as a whole that agriculture has made any particular failure, but I do know that mining has been carried on to a very great loss to a great many people, while there are some, perhaps, have made fortunes, but few in comparison to the general whole. And I say an extension to the mining interests should be certainly tolerated in the country here, while I am willing to admit that mining and agricultural interests go hand in hand, one is dependent upon the other. To be sure, agri-

culture is that that we cannot possibly do without. We cannot possibly do without agricultural interests and the products of agriculture, but while they are as it were at the foundation of our interests, but the mining is the source from which we expect to get our money and to get occupation for individuals that are not either agriculturalists or even miners, but they are laborers, and it is that source that gives occupation, and I say that any mine is a public interest. I say that every mine, although it may be owned by an individual, it is a public interest. Why? Because, indirectly the benefits come to the general public, so does every institution that is created. There is not an institution of a mechanical character, but what is a public interest to an extent. It employs men and the results go to the general public. So I say that my feelings are that this section should be certainly retained in the interest of the general public, because, just as my friend from Washington stated, the men might, for the purpose of, as it were, blackmailing, go and take up a piece of ground for the very purpose of asking a compensation that would be thoroughly unreasonable, and I say that the section should be retained, in my judgment.

Mr. SQUIRES. I would like to ask Mr. Ivins a question. In your judgment, does the objection raised by the gentleman from Cache, that the placing of this matter in this section and leaving out of the agricultural interests of the State from any constitutional provision, prevent the Legislature from making a similar provision for the agricultural industry?

Mr. IVINS. Well, I do not know that I can answer that question. I was not here when the gentleman from Cache made his argument, and had I heard it, I do not know that I would be as competent as he to answer that.

Mr. SQUIRES. His objection is, Mr. Chairman, that if we mention these uses for mining purposes, we thereby debar

the Legislature from making a similar provision for the protection of agricultural interests. If that is conceded by the lawyers, and there is any chance of having this section put in here, I believe it should be amended. For that purpose I will offer the following amendment to test the sense of the committee.

The CHAIRMAN. The chair desires to state that it does not feel like being called upon to rule upon a question of that kind, as everybody knows that I am opposed to this sort of legislation, and any ruling I might make would be misconceived. I would suggest to the gentleman it would come better on third reading, or else that the committee appoint some one else to take the chair.

Mr. SQUIRES. Would there be any harm in offering an amendment now to test the sense of the house?

The CHAIRMAN. The chair would be of the opinion that all these matters embraced within the section and the preamble and bill of rights have been finally disposed of by this Convention and cannot be interjected in the Constitution in this way, except upon the reading of the whole Constitution by a two-thirds vote, under suspension of the rules or upon a reconsideration of the other vote which disposed of it, but I prefer not to be called upon to pass upon that question.

Mr. SQUIRES. This section is still under consideration. The chair does not rule that it is not under consideration?

The CHAIRMAN. I wish to make that suggestion. The gentleman can proceed as he chooses.

Mr. SQUIRES. I move to amend so that if the section be adopted it will stand in this form, insert after the word "mineral," in line 5, the words "and agricultural," so that this provision would apply not only to the mining, but to the agricultural resources of the State.

The CHAIRMAN. The gentleman should send his amendment up in writing.

Mr. THATCHER. Mr. Chairman, I would suggest to the delegate, Mr. Squires, that he add in his amendment, "for manufacturing purposes." It is also an important industry.

Mr. SQUIRES. I understand that the courts have ruled that the use of water for manufacturing purposes is a public use and would not need to be put in here.

Mr. THORESON. Mr. Chairman, I have an amendment here for this section that I think will cover the ground—an amendment to the amendment.

Mr. HOWARD. Mr. Chairman, I wish to offer a substitute for section 3.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to all these amendments and to the article itself.

Mr. Thoreson's amendment was read as follows:

To strike out from lines 4 and 5, the words "as a means to the development of the mineral resources of the State," and insert in lieu thereof, "and for agricultural, domestic, and sanitary purposes."

Mr. Howard offered the following substitute for the section:

The necessary use of land for rights of way for tunnels, flumes, pipes, ditches, canals, reservoirs, roads, tramways, or dumps, for the development of the farming or mineral resources of the State, is hereby declared to be a public use, and subject to the control and regulation of the State.

The CHAIRMAN. I would like to ask the gentleman whether that is copied from the article that was stricken out of the preamble and declaration of rights?

Mr. HOWARD. No, sir; that is worded just the same as this other, with the addition that I have put in there, "canals, and reservoirs, and for the development of the farming resources of the State."

Mr. EVANS (Utah). Does the chair hold that that substitute is in order now?

The CHAIRMAN. The chair under-

stands that it is a substitute for these two amendments.

Mr. EVANS (Utah). I know, but it is just an amendment, if there are two amendments already to the section.

The CHAIRMAN. That is right; the proposition should come on Mr. Squires' motion.

Mr. SQUIRES. Mr. Chairman, I wish to withdraw the amendment which I offered, as I think the substitute offered by Mr. Howard more fully covers the point we desire to gain; that will leave the substitute before the house.

Mr. THORESON. I will withdraw mine.

The CHAIRMAN. The question is upon the substitute offered by Mr. Howard.

Mr. EVANS (Utah). Mr. Chairman, I think that this matter was thoroughly discussed when we had it under consideration in the bill of rights, and after mature deliberation this Convention decided against that, and I believe that that is what they will do again. My friend from Summit decided here some time ago, that no man only he who was practicing in the law was speaking upon that side of the question. He referred to the fact that but very few knew anything about the great white-clad peaks of the Wasatch range only what they had read about. I want to say to the gentleman that I have been upon those peaks myself, but it did not help me to form a conclusion, by reason of that, that I had any right to cast my vote to enact a constitutional provision whereby one citizen could demand aid of the State to take away the property of his fellow individual citizen.

That is what you propose to do in this article, as I comprehend it; that you are going to make a constitutional enactment whereby if one person believes that his interest demands that another person's property shall be taken by giving him what he thinks perhaps is a just compensation, that he will have a right to do it, and I say

that we ought not to do that. I say that it is sufficient, as we have already declared, that private property shall be taken for public uses and those uses will be declared by the courts. I am opposed to this system. I believe that we have done all that we ought to do, and I do not think this Convention is prepared to say that if it shall be in my wisdom deemed proper that I should take the property of my neighbor, that we should declare that I had the right to do that. We cannot tell where that principle will strike, and, so far as I am concerned, it would make no difference to me where it would strike. I should be opposed to it upon the principle of human liberty, and we ought not to be allowed to do it. I say that it is going as far as we ought to go when we say under our organic law that private property should be taken for any purpose whatever. Those purposes should be strictly public, and they should be defined by the courts, because that is where it will go eventually. Whenever this question is tested, if you shall put that in your organic law, men will not submit to it, and it is a question that will institute litigation in this Territory and will eventually have to go to the courts to be decided upon, and I believe that if we were to take that position that the courts would decide that it was unconstitutional; it ought not to exist, that private property should be taken by private individuals for their private purposes and uses. If you follow this thing up, you will soon see that the safety of the individual, that the bulwark of his liberty and safety is broken down, whenever you insert such a provision in the organic law, and I believe that this Convention, when this vote is called upon the substitute and also upon the section as reported by the committee, while not charging them with any selfishness in this matter—I want to say to you, gentlemen, if this substitute will be voted down, as I think it

will and ought to be, then when the question shall revert upon the article as reported by that committee, that the fact that they have defined in there what is to be a public use, it will be curtailing upon the Legislature, as I comprehend it, that they will not be able to say that anything else shall be a public use, and therefore, you will discriminate against the manufacturing resources of the State, against the agricultural industry of the State, in favor of the mining industry, and I do not think we ought to do it, and I do not think this Convention will.

Mr. KEARNS. Do you think the Legislature would provide the necessary laws from time to time without doing anybody injustice?

Mr. EVANS (Utah). No, sir; I do not think they would have the power to do it, if we undertake to define what is a public use.

Mr. KEARNS. If you strike it out, they certainly won't.

Mr. CREER. Mr. Chairman, I simply want to ask the gentleman a question. I want to ask if he has heard of the reputation of Mr. Choate, of New York, as an attorney. He confirms that principle.

Mr. EVANS (Utah). I do not know anything about Mr. Choate's reputation at all. It would not make any difference to me if I did.

Mr. CREER. His reputation is national, and he sustains this.

Mr. GIBBS. I wish to ask Mr. Evans a question. Don't you think it is right if a man has a farm in the center of a field, and in order to get water in to that farm that he should have the right to fetch it there some way?

Mr. EVANS (Utah). Yes, sir; I do. I believe that when the necessity becomes sufficient, the courts will so decide.

Mr. GIBBS. Well, I am in favor of having a constitutional provision providing for that emergency.

Mr. EICHNOR. I would like to ask Mr. Evans a question. Is it your idea

that the Legislature should declare these interests public uses?

Mr. EVANS (Utah). No, sir; it is not.

Mr. EICHNOR. Simply the court.

Mr. EVANS (Utah). Yes, sir; simply the court. But I say the Legislature may do it if we do not debar them by specifically setting forth one interest, by declaring it to be a public interest. These debates will be gone into in defining these questions, when they come to rule upon them. They will see what led up to it. This Convention struck the other provision all out and then inserted this.

Mr. HART. There is a matter connected with the legal phase of this question that I think should be considered. I think that the gentleman from Salt Lake, Mr. Bowdle, is mistaken when he declares that the decision of the courts in the western states at least will not uphold as a public use the taking of land for purposes of right of way for irrigation ditches, and also for manufacturing and mining and milling purposes. It is true that the decisions of the courts all over the United States are considerably at sea as to what is a public use. They are not only undecided and uncertain as to what is a public use in these different cases, but there is a difference of opinion amongst them as to the test or criterion upon which a public use is to be determined. But the decisions of the western states have very generally held, in addition to the authorities read by the gentleman from Summit County, that a right of way for irrigation purposes, for mining and milling, was a public use. It is true that there is a decision there from California that the gentleman read that does not uphold that in a certain mining case, but I can show the gentleman other authorities from California which do uphold the right of way for drainage and irrigation purposes connected with mines, such as drains, etc., from the mines. It seems to me there

must have been something connected with the particular circumstances of the case that the gentleman read there that should cause them to decide that that was not a public use.

The CHAIRMAN. For one individual is the division—for one purpose.

Mr. HART. It would seem from that case that it was for the benefit of one individual solely and some other person was perhaps being injured to a like extent. Of course, if some great good shall come from some slight injury, although a few persons only were interested in that right of way, I have no doubt the court would uphold it as a public use. Therefore, if upon the first discussion of this question we could have the substitute offered by the gentleman from Weber County (Mr. Kimball), which was the Idaho constitution on this subject, I would have been glad if that had been adopted. It would have defined and settled the question to a great extent and removed the uncertainty of the decisions of courts upon this question; but we have rejected that. Now, Mr. Chairman, I am in favor of striking out this section for the reason before stated, that if we enumerate these matters connected with mines, and declare that they can be taken for public purposes, I am afraid that the courts will be hampered in passing upon the question of rights of way for agricultural purposes. I would not oppose this section for a moment if it was simply to make certain and sure something that the mines should have which it would do. I would be willing to give it a preference over agriculture by declaring and making certain in this way, inasmuch as we cannot make the other matter certain, I would fix certain that part that we can if I was not afraid that by so doing you would rule out the power of the courts by judicial decree of determining that rights of way for agricultural purposes were public uses.

I am opposed to the substitute offered

by the gentleman from Emery County for the reason that I believe it is crude and imperfect. From a casual reading of it, I am certain that it is. No layman can sit upon the floor of this house and in a casual manner produce an article that will stand the test of the courts or will give us satisfaction. Mr. Chairman, if we were going to declare these matters public uses at all, let us include the whole list, rights of way for milling, manufacturing, mining, and agricultural purposes. Let us by unanimous consent go back to the section introduced by the gentleman from Weber County and get a section that is well considered and nicely worded, and not attempt either to hamper the courts in their discretion as to what is public use by declaring some of these purposes public uses, or let us not on the other hand attempt to cover the ground by a crude and imperfect substitute that is offered upon this whole subject. I am in favor of striking out the section and oppose the substitute.

Mr. RYAN. Mr. Chairman, I would be opposed to the substitute. I am opposed to the third section and was opposed to it in the committee, but I did not see that it would or could do any good and would not answer the purpose which it was designed for. Some remarks have been made showing or tending to show that a man might take up a piece of ground below a valuable mine and obstruct the right of way for drainage, for roads, or for any other reason. He might take it up for that purpose and he might not.

One mine might be developed and be valuable. A piece of ground adjoining it might be undeveloped and equally as valuable, and if you, Mr. Chairman, wished to cross my ground with a road or a ditch, claiming it to be a public use, and I would deny your right, this section I do not think would settle the question. You would have to go into the courts then, would not you? And looking at it in that way,

and taking that view of it, I cannot see that it would accomplish any purpose whatever.

Mr. SQUIRES. Would it be necessary to have more than one case taken to the courts—could not a test case be made that would settle the whole question?

Mr. RYAN. I presume so; that would settle it, without this section, would not it, so that the section would not do any good?

The CHAIRMAN. Will the gentleman permit the chair to make a suggestion, that each case would have to depend upon its individual facts?

Mr. ROBERTS. Mr. Chairman, this whole matter that has come up for discussion this morning, as I remember it, was very thoroughly considered in sections 22 and 23 when the bill of rights was under discussion. The latter part of section 22 and the whole of section 23 covered all and more than is proposed by this substitute or by section 3 in the article on mines and mining. I think, sir, at that time, the result of the discussion was that the latter part of section 22 and all of section 23 was stricken from the bill of rights and the provisions left thus:

Private property shall not be taken or damaged for public use without just compensation.

That, sir, as I remember it, left all this matter to the Legislature and to the courts. It left mining, agriculture, and manufacturing interests, so far as these matters proposed in this substitute are concerned, upon an absolute equal footing, and now to disturb the action that was then taken by the Convention, after full, free, and prolonged debate upon the question with a full house, I think it is exceedingly unwise and unprofitable, and as was suggested and brought out by the remarks of the gentleman from Juab, in the question propounded by the gentleman from Salt Lake to him, this whole question

at any rate would have to go before the courts and depend upon the decision of the courts as to what public purposes might be. And for that reason I am unwilling to disturb the candid decision of this Convention upon this proposition.

And now to spring an ill-prepared and doubtless ill-considered and hurriedly prepared substitute, to work into this Convention what was once ejected from it, is not the part of wisdom, and I think that in all these respects we can safely trust the Legislature, and we can safely trust the courts, and the miners can do that just as well as the agriculturists and the manufacturers can do it. Now, sir, for the reason that we have fully discussed in this Convention and settled these propositions, I am opposed to the section and also to the substitute.

Mr. JAMES. Mr. Chairman, I wish to call the attention of the gentleman from Davis County to the fact that it is necessary in order to secure rights of way over these mining properties that they should be declared rights of way for public purposes by this Convention, otherwise the courts would have no power, as I understand it, to declare rights of way over these private properties for private uses. We are attempting, as I understand it, in this section to determine what is a public use, and as I understand it, it is within the scope of this Convention to make a declaration of that kind.

Mr. ROBERTS. Does the gentleman not remember that substitutes were offered for section 23, attempting to declare what public uses were, in the discussion that we had on that question?

Mr. JAMES. Yes, sir; I do. You are right.

Mr. ROBERTS. Then, I ask you if you do not also remember that those substitutes were rejected on this settlement by this Convention?

Mr. JAMES. That is correct.

Mr. ROBERTS. Is not this reviving

a question that was once settled by the Convention?

Mr. JAMES. That is also correct. I take for granted that if this Convention in dealing with some question should have enacted or passed some provision that they would afterwards discover that would be beneficial to the public to correct, that it would be a proper thing for them to endeavor to do so. Now, the gentleman from Beaver (Mr. Murdock), called your attention to mining as a public benefit. Now, I take it for granted that no gentleman on this floor will question the gentleman's position regarding mining being a public benefit. Now if there should be any question in any gentleman's mind regarding this statement of the gentleman, let him look to Europe. There, after hundreds of years of experience in mining, we find to-day the government of—

Mr. BUTTON. Mr. Chairman, I arise to a point of order. This Convention has decided this question in Convention, and is not it out of order to be discussing it in this committee?

The CHAIRMAN. The chair is of opinion that that matter would be properly decided in the Convention. I should not care to rule upon it as chairman of the committee of the whole. When this committee makes its reports the Convention can decide it.

Mr. JAMES. Then I will proceed Russia to-day is taxing all classes of industry for the purpose of working their precious metal mines to a certain extent. Now, if it was not a public benefit, would that great nation, Russia, be found taxing the public in order to work those mines? And is not it so, gentlemen, that Europe has for generations discriminated in the interests of the mining industry, that is, they have made the burden of taxation light upon the industry? Now, I simply mention this to you, gentlemen, as I vote that mining is a public benefit, and that is the reason why the gentleman, I sup-

pose, from Summit County has come in here and asked you to declare rights of ways over these properties public uses. Now, Mr. Chairman, so far as I am personally concerned, I have not one particle of personal interest in this thing being done. As you all well know, I am an old miner of long standing in this Territory. My titles are perfect. I am not seeking rights of way anywhere, but, gentlemen, there are poor men in this county to-day that own mining property that, if I do not see fit to give them rights of way over property that I own patents to, in this county, their properties are not worth one cent to them, and they have spent years in trying to develop them and make them of some value to themselves. Now, for the reason that it cannot injure anybody and it is a public benefit, that it is no concern to the agricultural industry, excepting to their benefit, I do not see why this question should have come up here unless there is something improper or illegal in our proceedings. I concede if there is, that we should not do it, but otherwise, there should be no question about this. I say to you, gentlemen, that are engaged in agricultural industries, this very proposition is to your particular benefit. Why? As the gentleman from St. George has told you and as you all know, because you have lived in these mountains and you are familiar with how mines are located, how they are situated, and where they are found, and know that it is frequently a narrow passage, we cannot get into the mountains where mines are without these passes, and a man, as he has a right to do under the law, has got that and located that piece of property, shutting off the right of way to that narrow passage; now, suppose, gentlemen, you vote here so that you put yourselves in a shape that you cannot get over that piece of ground, and what is the result? Why, you farmers must go up into the moun-

tains to get that timber. You must go up there and seek—

Mr. RYAN. Mr. Chairman, I would like to ask the gentleman a question. In your mining experience, how many cases have you met such as you speak of, desiring the right of way over another man's property—how many cases have you met that you were not able to settle amicably with the claim owners?

Mr. JAMES. Well, personally, not any; but I know of several that have caused serious trouble. Now, I want to say to you, gentlemen, supposing you want to pass over this piece of ground or to get out of those mountains to take rocks or drive your cattle up in there to herd them, in the summer season, just as is done in all of these mountain ranges, just as you have the privilege to do. Providence put the timber up there for your benefit, and it should be utilized. Now, supposing I should come, and in my contrary, stubborn and selfish disposition, shut you out of there and say you shall not go up there, am I doing anybody any good? Now, I cannot understand, unless it is for the reason I speak of, why there should be any question of adopting this section with this mining article. You will all observe in the bill of rights, passing over this ground or taking possession, that cannot be done without compensating the holder of this property for what it may be worth, and what more should he ask?

Mr. BOWDLE. I want simply to reply to what Mr. Hart has said in one regard. He has challenged the correctness of my position, and claims that it is not backed up by the decisions of these western states. He has asserted that that is not the case, but he fails to bring the decisions to contradict them. Now, the gentleman misunderstands one thing. I made no assertion with reference to mills. It has been held in a great many states that milling was a

public benefit. Everybody has to go to mill unless somebody comes for them, and it was held that that was a public benefit, and all of those cases that were referred to in the Eastern states, save and except possibly one, was on that ground. I admit that, and the court here would hold that milling in that term commonly used—that a grist mill, saw mill and the like would be a public benefit, and that you could have a road to these mills. I believe in some of the states it is held that in laying out a road you can make a terminus at a grist mill, because that is a public benefit. You can make a terminus at a public graveyard or cemetery, because that is a public benefit. Everybody has to die and be buried.

Mr. KEARNS. Do you hold that mining is not a public benefit?

Mr. BOWDLE. Mining is no more a public benefit than is agriculture—no more.

Mr. KEARNS. Do you hold that both are?

Mr. BOWDLE. I hold that they are both a public benefit in this, they furnish the means of subsistence to the people. One man raises the crop from the ground and the other digs the mineral out, and simply because a mine which employed a hundred men—it is no more a public benefit than a ranch that will employ a hundred men.

Mr. JAMES. How is it that foreign governments tax the people for the precious metal mines, if it is not a public benefit?

Mr. BOWDLE. I do not know. The test of public benefit is the amount of good it does to the public, and it does not make any difference whether it be a mine or whether it be a farm, if the farm is equally productive and turns out as many dollars and benefits as many people, it is as much a public benefit as is the mine. But I do not want to be understood in this that I am antagonizing the mines, not a particle. I wish for the mines of Utah the greatest

prosperity. But I do claim that when this section, if we pass it in favor of one industry, and by passing it we discriminate against another that is equally as great in this Territory, you cannot get away from the proposition that if that section passes you thereby say to the courts, "we have passed on the question of what is a public use. Agriculture and manufacturing is not a public use and you cannot benefit them by any decisions you may make."

Now, one other thing, I do not believe that it is the province of this Constitutional Convention to make a thing by declaration a public use that is not a public use.

Behind this Constitutional Convention there is a power that is greater than it. The Constitution of the United States has guaranteed unto men their property, and this Constitutional Convention cannot say to them, "We take that and declare it to be a public use." You cannot do it, and I do not believe that it means anything, that if we stand up here and declare a thing that is strictly a private enterprise or a public use, the public benefit, that that makes it so, and I am opposed to that on that ground. I am just as anxious that this Territory should improve and grow as any man dare to be in this Constitutional Convention, and every industry should prosper, but I am not willing to put that section or to put the substitute in this Constitution, because when we do, you say to one man, "You have the power to go and take another man's property," and one man stands in the eyes of the law just as good as the other, and the first is guaranteed that right and you say you will take it away from him.

Mr. HART. Just a moment in reply to a remark of Mr. Bowdle. He referred to the fact that I quoted no authority to substantiate the position I take. I will refer him to the same authority that my friend from Summit has over there on eminent domain, as

bearing out the position that I take. If I had the opportunity of reading the words, I would read them, and I am satisfied that it bears out the position I take. It is true, as he says, those cases named from the eastern states are in reference to milling purposes, but the same reason can be applied to agriculture, milling, and mining here in the west. There is no reason why a grist mill is any more a public use than a theater, and upon the same reason you could condemn a man's city lot for the purpose of erecting a theater, a public building to which all the public could go. It is just as much a public purpose as a mill is; it is not upon that ground that they sustain that line of industry in the west—the necessity of it.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of the section that is sought to be stricken out. I believe that it is necessary for the development of our mining industries. I do not share in the belief that it is unconstitutional. The section simply declares that the necessary use of lands for right of way, for tunnels, flumes, etc., are hereby declared to be a public use. Now, when gentlemen argue that these lands can be taken and appropriated for anything different from what the section expressly provides, the intimation in the argument is not well founded. It is only where the use is a necessary one for these necessary purposes. That is, for the purpose of developing the mining industry. Take, gentlemen, for instance, cases where men first located upon mining grounds. They secure all the grounds around them, and if somebody happens to get a subsequent location in a situation that is surrounded by the prior location, he would not be permitted to develop his ground, although it might be rich in mineral.

Mr. SQUIRES. Did you hear the substitute offered for the section?

Mr. EVANS (Weber). I did not, and would like to hear it read.

The substitute offered by Mr. Howard was read.

Mr. EVANS (Weber). I confess I am not opposed to the substitute. I take the same position that I took the other day upon this question, that courts will determine the question as to whether these purposes are necessary; they must be essentially necessary before the courts would deprive the owner of his land, and even then the title to the land is not taken, but simply the use for the purposes mentioned. It has been suggested here that there is no difference perhaps in agricultural pursuits and that kind of mining. I think in this respect there is a difference and I will state the reason for it. In agricultural pursuits the county courts and public authorities fix rights of way and ways by which people may travel and secure access to other lands, whereas in the mining camps up high in the mountains the public exercises no such control. The Ruler of all has placed in His wisdom the minerals in our mountains for the purpose of developing them and taking them out for the use of man. Why should man be permitted to so locate or be fortunate enough to secure lands in the situation that it will prevent the design of developing these minerals and developing the country and securing that additional wealth to our new State?

Mr. CANNON. I would like to ask Mr. Evans, in the case you refer to, if the prospector were to locate a mine which was surrounded by the mines of other men, possibly patented ground, would not the court permit that prospector, on proper application, if the owners would not, to get access to his ground?

Mr. EVANS (Weber). There would be, I think, in a court of equity a way of necessity by which the court would permit such a use, but there are other uses that are just as necessary as a right of way over which persons may travel. It is just as necessary that there should

be tunnels, and equally necessary that there should be flumes, pipes, ditches, tramways and the like. I can see no injury to any man owning mining property to permit these uses to be declared public uses. He cannot be so deprived of his property that he himself will be injured. It simply permits another person, under necessary and proper circumstances, regulated by the acts of the Legislature, to use that property for these essential purposes, to develop the mining industries of the new State. Why, gentlemen, we talk about these mining industries. They are something, in my opinion, that are paramount to all other industries in Utah. They are only temporary, however, in their character. While they are being worked, let them be worked to to the fullest extent, let them be developed; do not make a Constitution here which would stay the hand of enterprises, or stay the hand that desires to delve into the earth to extract from it these precious metals, which are essentially necessary as a medium of exchange. There can be no permanent injury to any man owning mines, whether he be the prior locator or not.

Mr. HART. Do you think this Convention can authorize the taking of private property for private purposes, by a simple declaration to that effect? Would not the courts have to pass upon it anyway?

Mr. EVANS (Weber). This is not a declaration that private property may be taken for private use. The whole thing is left to the Legislature, under certain regulations and restrictions, and doubtless the Legislature will deal wisely with it, doubtless the Legislature will say the manner in which this property may be taken. Of course it could not be done without just compensation, that is clear.

Mr. JAMES. Cannot this Convention declare what shall be a public use?

Mr. EVANS (Weber). Undoubtedly it can.

Mr. JAMES. Is not that just what we are trying to do?

Mr. EVANS (Weber). That is all, as I understand it, that we are trying to do. We might make such a Constitution here that private property could be taken for private use, and then declare those private uses public, and it may be possible that our supreme court will hold that it was not a public use, but there is a division of opinion in the courts of the land upon this particular question. Our courts, I have no doubt, would decide that mining was a public use, that it was essentially necessary that these things should be permitted in order to develop the interests of mining.

Mr. BOWDLE. You have almost answered the question I was going to ask you. Simply declaring anything to be a public use, would that make it so?

Mr. EVANS (Weber). It would not. I will say that in the abstract, it would not, but many of the courts have held that mining is a public use. Gentlemen, it seems to me that it is a public use. The minerals that are deposited in the earth originally belonged to the crown. In the United States government, they belonged to the people until segregated from the domain of the United States and title given by the government. A person who locates upon public land does it by the grant of the government. He receives benefits from the government. Why should he be permitted, upon public ground granted by the government of the United States, to be put in the position, as I stated the other day, of the dog in the manger, and develop his own grounds and exclude other people who honestly desire to develop their grounds, in cases and circumstances where the person first owning the land is not injured in the least?

Mr. SMITH. Would it be taking property for a public use by my having a mine adjacent to yours, and being unable to get over to mine, to take your property in order that I might

reach my mine? Would that be a public use or a private use?

Mr. EVANS (Weber). I think, sir, under circumstances of that kind that incidentally the benefit would be to the public. It would add to its wealth. It would add to the taxable valuation of the State. It would be in its very nature public, just as much public as a flour mill or any other industry of that kind. I am firmly convinced, gentlemen, that this section would do no harm, but that it would result in very much benefit, and I hope the Convention will adopt it.

Mr. HART. Mr. Chairman, if the gentleman from Weber favored section 3, or the substitute therefor, I would ask him why he did not favor the substitute of the gentleman from Weber (Mr. Kimball), some days ago?

Mr. EVANS (Weber). I did favor it, and the records of this Convention show that I made a speech in favor of it. I am still in favor of the substitute, but I do not believe that the temper of the Convention is such that it can be secured. For that reason I hope to secure the next best thing.

Mr. SMITH. Mr. Chairman, it seems to me this is a very strange course we are pursuing. We spent two or three days on this identical proposition. I myself got somewhat startled at the proposition to cut it out of the original bill of rights, and afterwards we reconsidered the matter and did take virtually this item just as it appears here, with a little changing in the wording. Struck it out after having debated the matter for, I do not know, but some two days. To my mind this is simply rethreshing of old straw, and I am just as much convinced now as I was then. I was willing to vote that this section should go out and that it should go out now. I believe it is a dangerous course and should not be in here. The courts should have this matter under consideration.

Mr. KEARNS. Mr. Chairman, that

section that was stricken out of the bill of rights, was it declared a public use and under the control of the State?

Mr. SMITH. It had not those words in it, but it amounted to the same thing virtually.

Mr. KEARNS. The section you are talking about?

Mr. SMITH. I think you are tampering with fire in this thing. We had better leave it alone. Some things we may mention and others not. By mentioning some things it will put the other matter in an unfortunate shape.

Mr. EVANS (Weber). I understood, Mr. Varian to champion the striking out of the section of the bill of rights, but he made no serious objection to declaring certain things a public use. That is exactly what we are doing in this section, and nothing else.

Mr. SMITH. My memory in regard to this matter is that so far as he was concerned, he was opposed to the whole proposition in the form in which it was presented.

Mr. EVANS (Weber). I understood him to say that in Nevada the courts have declared it to be a public use.

Mr. HAMMOND. Mr. Chairman, I am surprised at this matter being presented to us again, for we have gone over the matter fully and spent a long time in a prior debate. I am opposed to the section and opposed to the substitute. And while my friends, the lawyers here, express my thoughts, I prefer to get off some of my jag in my way, and I am satisfied that if this thing is left alone it will work all right through the Legislature and our courts. Now, sir, within the past year—you will pardon me for speaking about San Juan. I do not know how to talk without San Juan is in it—during the past year those mines have sprung into existence, and what has it done for us? Why, it has afforded a market for our butter, our cheese, our honey, our fruit, our beef, our mutton, and we are getting blessed through it—through this interchange or interde-

pendent interests, one upon another. I do not see how we can live without it. Leave it alone, sir, to the Legislature and the courts, and we will be satisfied.

Mr. THURMAN. Mr. Chairman, I shall not occupy the attention of the committee very long, but I trust this matter will remain as it was in the bill of rights. The fact of the business is, this is a question that belongs to the courts. The courts have always had control of it, and in every instance they have worked for the interest of the people. I challenge any attorney on this floor to cite one case in the books where a court ever strained a point against declaring anything a public use that was for the benefit of the public. The fact of the business is, the trend has been in the opposite direction. They have been declaring things that are strictly private use, a public use.

Mr. PIERCE. I pick up the gauntlet which he throws down.

The CHAIRMAN. The gentleman is out of order.

Mr. THURMAN. You can answer when I get through. I say that is the trend of judicial decisions, and the books lay it down that it is essentially a judicial question, and I maintain that this Constitutional Convention has no right to attempt to say that the property of a man shall be taken for private use, and if we are not here attempting to do that, what are we attempting to do? That is the question. If we undertake to say that mining is a public use, then the courts will declare that the right may be exercised. If it is a public use the courts will so declare it, every time. If it is a private use that we are trying to allow property to be taken for, I say we have no right to do it and it will have no effect. It has been determined time and time and again that where the legislatures of the states have declared a thing to be a public use, it is not a final determination of the question. The judiciary still have the right to say that it is or is

not, and I say that the same principle will apply, if we in this Convention undertake to say that a certain thing is a public use. After all, the judiciary will have to finally settle the question. I think we ought to leave it as it is.

Mr. PIERCE. Mr. Chairman, I think this section ought to be retained for the reason that I conceive that the section if retained will very materially aid in the development of the mining resources of our Territory, and the mining resources is one of the principal resources of the Territory. If I recollect correctly the law upon this proposition, it is this, in the state of Nevada, some time in perhaps 1872, the eminent domain law contained a clause similar to the one that we have passed in our bill of rights. Subsequently the legislature passed a law declaring that the right of eminent domain existed in favor of mines and mining property, as a public use. That came up for construction by the supreme court of the state of Nevada, and they held that the law was constitutional under the general clause such as we have in our bill of rights. Of course, if, our courts took that construction, there would be no danger, and the right of eminent domain would exist in favor of mines and mining claims. But, sir, upon the other hand, against the decision of Nevada the weight of authority is in direct opposition to it. The question has come up in the state of California, I cannot now recall the case, in the state of Georgia, and in the state of Pennsylvania, and they have held that under such a section as we have in the eminent domain act or in the bill of rights, that the courts could not construe that mines and mining property were public uses and at the same time enjoyed the benefits of the eminent domain act, and, to place this question absolutely beyond controversy, I think it is the duty of this Convention to declare in favor of mines and leave the section in as it is reported by the committee.

Mr. KEARNS. Mr. Chairman, I will also support the substitute that is offered here. It is strange, but I have to differ with the able gentleman from Utah on the way he has laid down the law and as to the necessity and how the courts could find for the people of this country. It is strange that in 1894, in the revised constitution of New York, that that able body found it necessary to say that general laws may be passed permitting the owners or occupants of agricultural land to construct and maintain for the drainage thereof necessary drains, ditches, flumes and dykes, upon the lands under proper restrictions, etc. Now, if they found it necessary there, it is strange that the proposition should be made here that this section will not do our Constitution any good.

Mr. THURMAN. Has that been construed by the courts?

Mr. KEARNS. That, I suppose, if two parties differ on it, would necessarily have to be, but if it was an understood fact between the people themselves, it would save construction by the courts.

Mr. THURMAN. I understood you to say you differed from me in respect to what I said about the law. I said the courts would construe what is a public use and what the Legislature would do would not be final, or what this Convention could do would not be final.

Mr. KEARNS. I understood the gentleman wanted to strike out this and leave it to the courts to do this.

Mr. THURMAN. That is right under the bill of rights.

Mr. KEARNS. I am opposed to it. Also, in Colorado—coming nearer home—they find it necessary there and put it in a good deal stronger than we do. There I believe the committee on mining and irrigation is one and the same thing. They provide that all persons shall have the right of way across public and private and corporate lands for the construction of ditches, channels,

flumes, and for the purpose of conveying water for the domestic, for the irrigation of agricultural lands, and for the mining and manufacturing purposes, and for the drainage, upon payment of just compensation. Now, gentlemen, I do not think there is any danger in leaving this to our future Legislatures and I hope that the amendment will prevail.

The question being taken on the substitute offered by Mr. Howard, the committee divided and by a vote of 40 ayes to 43 noes, the substitute was rejected.

The question being taken on the motion to strike out the section, the committee divided and by a vote of 50 ayes to 32 noes the motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I desire to now move to strike out sections 1 and 2 of this article.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled prohibition.

The article as reported by the minority of the committee was read.

(See journal, pages 204 and 205.)

Mr. RICKS. Mr. Chairman, I move that when this committee arise, it report the adoption of the majority report.

Mr. ROBERTS. Mr. Chairman, I move as an amendment to the motion of the gentleman from Sevier, that the committee adopt the majority report and so report to the Convention when they arise.

The CHAIRMAN. I understand that is the motion of Mr. Ricks. You second the motion.

Mr. IVINS. Mr. Chairman, I am opposed to the motion, and as an amendment I move that the recommendation of the minority be adopted. The disposition of at least some members of this committee seems to be to dispose of this question without any discussion whatever. It does not seem to me that that is the proper thing to do. It is a

fact which we must all recognize, that a very large number of people in this Territory have petitioned asking us that this question of prohibition be submitted to the people as a separate article, to be inserted in the Constitution.

Now, Mr. Chairman, I wish briefly to define my position upon this question. I am and have been a prohibitionist. I do not want to be misunderstood in regard to the position that I take. I have contended against the saloon element and existing laws which make the sale of intoxicating liquors respectable and legal, for years and years, and I do not wish now upon the floor of this committee to allow a question of this character to pass by without at least entering my protest against it. My conclusions in regard to this question have been largely the result of personal experience. I shall not attempt to discuss it at length, but, Mr. Chairman, as I have remarked from my own personal experience and observation, I have become opposed to the licensing of saloons for the disposition of intoxicating liquors. In the early part of my life, for the lack of better material, I was used as a prosecuting attorney in one of the counties in this Territory. During my experience I came in contact with many criminals. I was required to prosecute men for a great variety of offenses, and I want to say here that from my observation more than three-fourths of all the criminal cases that I ever had to deal with were the direct results of the use of intoxicating drink. I have prosecuted men for murder, for arson, for incest, for larceny, and almost without exception, when those men were brought before the bar of justice, it became apparent from the testimony adduced that their misdeeds had been the result of the use of intoxicating liquors. I have it from the statement of an old attorney, one who has had years of practice at the bar, that out of four thousand criminal cases that

have come under his direct observation, in many of which he appeared as counsel, three thousand were directly traceable to the effect of strong drink, and many of those were indirectly traceable to the same cause.

I tell you, gentlemen, that I believe that fully half the expense of our court proceedings in this new State may be abolished if you will abolish the liquor traffic. So, from a point of economy, I am in favor of this provision, and I stand here and advocate it today, and if it shall go before the people I shall advocate it there, and I shall advocate it in the hope that it may be incorporated into this Constitution and become a part of the fundamental law. I have no faith that good results will come from local option. I have no faith that high license can abolish this system; but you make it a part of the constitutional law, let it be removed from politics, and I believe I know the people of Utah well enough to say that if they once make up their minds that the liquor traffic shall be abolished, it will be abolished. Why, gentlemen, every man who reads the papers knows that this thing is sapping the very foundation, undermining the corner stone of this government.

I remember reading of a young man who, in a paroxysm of drunken rage, struck down and killed his own father. And when he was arraigned for murder, it was brought out in evidence that the liquor which he had procured had robbed him of his reason and prompted the murderous blow, and that it had been obtained from a saloon hard by, the keeper of which had been licensed to dispose of that liquor by the very court before which he was being tried for murder. I remember the case of a young man who struck down and killed his bosom friend, and when the saloon-keeper in whose resort the deed had been done was placed on the witness stand, he testified that his license to dispose of that drink had been granted by

the very court before which he was then being used as a witness. I remember a little child being struck down by a blow from the hands of a drunken mother, of a wife whose head was cleft in twain by an ax in the hands of a drunken husband, of one who struck down in drunken rage and killed his only brother, and these criminals, when they were dragged before the bar of justice, crying in the remorse of souls for pity, were living witnesses that they were not murderers at heart. No. The element that was responsible for those bloody deeds was a dollar's worth of the meanest whisky on earth, that a Christian had licensed a respectable citizen to place to their lips. In my own short experience, I have sat by the grave of a drunkard and looked back to a time when he was at the head of a happy household, sheltered by a roof, where plenty abounded, peace prevailed, and the happy prattle of children made the homecoming of the evening the most pleasant anticipation of the day; but this demon, this tempter, came into that household and I thought as I looked down into his narrow resting place what legacy he had bequeathed to his heartbroken wife and tattered children, his will could be written in a few short sentences: "To my heartbroken, poverty stricken wife, I bequeath the recollection of broken vows, blasted hopes, and a life of penury and woe. To my little children, I will and bequeath lives of degradation, shame, and sin, and to the rest of my kindred I bequeath the recollections of a misspent life and the monument of a drunkard's grave." How many thousands of such wills, gentlemen, are filed before the courts of heaven every year for probate, God only knows, but we know that they are many, and I say that when a time shall come that all men receive the reward of their merits, we, who are the framers of the law, will not be found guiltless if we shall give our sanction to the enactment of laws which make the saloon

respectable and which is surely and relentlessly making criminals of otherwise good and honest men during every year that this earth turns around on its axis. I have no quarrel with men who are engaged in the liquor traffic. Under existing laws their business is made respectable, and I would not in any way interfere with them. It is a source of regret to me that I am obliged to stand here to-day and take the position which I know brings me in opposition to the ideas and the views of many good men whose judgment is equally good and perhaps better than mine, but, gentlemen, I cannot be misunderstood upon this question. I am a captive to my conscience, and my conscience prompts me to contend here in favor of the incorporation into the Constitution of the new State of this article, because I believe that the safety of our sons depends upon it.

I shall not discuss the question of the infringement of personal rights. No one here will protest against laws which look to the extermination of the opium joint. There are no such great interests involved as this committee says in its report. It applies more particularly to the Chinaman, but when you come to apply it to the free born American, then you are attacking his personal prerogatives. I want to say that I am ready to take chances and have this incorporated in our Constitution, notwithstanding the great property interests that may be at stake. What are property interests in comparison with human life? There is no other argument. I have talked with saloon men and I have never met one in my life that attempted to justify his traffic, except from a position of gain, "Gold, give us gold, no matter what the cost." For it, men murder, rob, steal, women sell their virtue, and men place in the trembling hands of their fellows the maddening drink, when they know from their step and from their trembling hand that every drink they take is

bringing them nearer to death, and not only ruining the body, but placing their souls in jeopardy. Gentlemen, I shall vote for this minority report. I shall contend for it. If your wisdom shall say that it is not right, proper, and expedient that it should be incorporated in the Constitution, all well and good. I have not much faith that it will be. I did have some little faith, some little anticipation, some hope previous to the junketing trip we took to Logan the other day, but that spoiled it all.

Mr. ROBERTS. I would ask the gentleman if he knows how many signers to these petitions asking for the submission of this article have been filed in this house?

Mr. IVINS. I understand that these petitions have been signed by a very small minority of all the people of Utah, but I stand here to-day advocating that that minority should be heard [laughter], and I hope the gentleman will not stand in opposition to me upon this question.

Mr. ROBERTS. I wish to ask another question, and that is, if the reputation that this Convention has established in regard to dealing with the petitions of the people that chance to be in the minority, leads the gentleman to expect that the Convention will pay any more respect to this minority petition than it did to a certain other minority petition which the gentleman voted not to accord? [Laughter]

Mr. IVINS. Mr. Chairman, I voted not to accord what the other minority asked, because I thought that they asked for the wrong thing. I vote to accord what the present minority ask, because I think that they come for the right thing.

Mr. CHIDESTER. Mr. Ivins, you stated you prosecuted a great number of criminals, and it transpired that the leading up to the crime was brought about by the liquor. I want to ask you if that was sold from saloons or from private individuals?

Mr. IVINS. It was from saloons in mining camps. I do not refer, gentlemen, to little cases of misdemeanors. I refer to cases of very grave importance that came under my observation at Silver Reef and other mining camps while I was prosecuting attorney.

Mr. EVANS (Weber). I would like to ask the gentleman if the wine that is produced in Dixie has the effect upon individuals that he has described?

Mr. IVINS. I want to say that while I come from a country where a great deal of wine is produced, I do not drink much of it. I believe that the gentleman himself is better capable of answering that question than I am. [Laughter.]

Mr. MAESER. Mr. Chairman, although a signer of the majority report, I have come to this Convention with a full conviction within my heart to cast all my influence and all my efforts for the cause of prohibition in whatever form or shape this Convention might deem proper to advocate and promulgate that cause. I endorse every word that the gentleman from Washington (Mr. Ivins), has been saying. It corresponds with my own experience and my principles. There is not a man on the floor of this Convention that has worked so long and faithfully in the cause of prohibition, I dare say, as I have done in my capacity as a teacher of the people. I have suffered personal insults times over and over again from the saloon element from trying to keep young men that have been under my charge from those influences that are so destructive, and that have been so vividly painted before us by Mr. Ivins. I say I come here with the full determination to cast my influence and all my efforts for the cause of prohibition, but this has been my first experience in legislative labors. I have never gone and entered into politics. My life has been spent in the school room exclusively, and all the labors connected therewith. My views, I must acknowledge, have

been broadened somewhat. I find myself in a new field that has been to a very great extent foreign to me before, and with this, in regard to methods of dealing with matters and things, have had to undergo a change somewhat. I am just as much for prohibition as ever I was. My whole heart is fully devoted to this. I have seen the evils of the saloon element among our youth. Hundreds of cases I have had to deal with; labored hard and faithfully to rescue young men from the downward course on which the saloon element was driving them. This I have done over and over again, and perhaps more sacred work I have had to do in this respect than I wish to dwell upon on the floor of this house just now, but when I found that I had an oath given to help frame a Constitution, before all things a Constitution that would be acceptable to the people of this Territory, in order to secure statehood for Utah, this was my oath. I was not to come here only for the sake of prohibition, nor for any other special purpose, or scheme, but this was the main principle to which I was devoted by my oath here on the floor of this Convention, and I found by my close observations—you know all I have not been much of a talker on the floor of this house, but I have done a considerable amount of thinking. I found there was a great opposition to the movement of putting it into the Constitution, and not only directly in the Constitution, from this Convention, but also by separate voting of the people.

We cannot afford—I must acknowledge my fear, my want of faith, perhaps, my apprehension, I must acknowledge that I am perhaps too weak, too cowardly, that I have not strength enough to face the music and see it through. All this I may acknowledge, but it is my devotion for the Constitution that we want to secure and for its safe carrying through and the vote of the people that causes me to subscribe

to that majority report. When the Convention accepts this majority report and it is left for the Legislature, as the majority report states that it should be done, for the reasons assigned there which I do not desire to enter upon, at any great length—when that is all done the people of this Territory will find how energetically I shall vote for the cause of prohibition to carry it through to a successful issue, that the next Legislature may pass a law of prohibition, being mindful of the invested rights, which we have no time to do here, and I do my utmost that men be sent to that Legislature that will pass a prohibitionary law, and then we can see it for two years to what extent it will work; and this is the position which I thought I owe, to my fellow citizens, that have been approaching me and reproaching me for taking the stand which I have done. A prominent clergyman of this city gave me a most severe lecture. I thanked the gentleman for the candid expression of his feelings in regard to it, but it has not changed the stand which I have taken now, and I hope the Convention will endorse and accept the majority report.

Mr. MURDOCK (Beaver). Mr. Chairman, I regard this as I do many other questions that come before this body of men, that this is the most important question—one of the most grave questions; I do not think there is any that is more important than the one that is now before us. Mr. Chairman and gentlemen of the committee, here is a body of men that is chosen from all parts of the country. They are supposed to voice the mind of the people from the districts from which they come. And this is a question that is in the minds of all the people. I realize this fact, that it takes a man of stamina to meet this question, and I am proud that I seconded my esteemed friend from Washington County—that I seconded his motion to accept the minority report. I know that this is a very im-

portant question in many respects; and that I have got no feelings against men who are in the business. I presume they have chosen that business because to them it perhaps is the most paying business that they could enter into with all the surroundings. I do not wish to say anything about the matter, but here is an evil, gentlemen, as I regard it, as an evil, and I think the great majority of the people of this Territory regard this as being an evil.

Let it be ever so paying to individuals in the business. I know it touches the interest of a great percent. of the people. I realize this fact and there are many great investments that have been made, many outlays that have been gone into for the purpose of the business. There are other businesses possibly even worse and more disreputable than this, that men make money out of, but the fact is this: let them be tolerated. We propose to start out in this as nearly perfect as we can in all our fundamental principles. That is what we are aiming at. That is what we are struggling for, although many minds differ upon the principles that are set forth, but is there anything that is more important and of greater interest to the commonwealth and the people than this principle of traffic in intoxicants? Is there anything that is more—while it may pay a great revenue and results in advancing their interests, we want to look at the interests of the general whole—of all the people. Now, I endorse the minority report for this reason, the responsibility to-day is upon this body of men. A responsibility rests upon us, and now do we want to shift that responsibility and place it upon the people? I do, most emphatically. I want to shift it from off my shoulders and place it upon the people. For that reason, I thoroughly subscribe to the minority report. What does it say? It does not ask anything unreasonable, and I am pleased to be associated with the men that had the stamina to move that we reject the

majority report and accept the minority report. For this reason it was got rid of, or it seemingly was. There might have been much said. You will excuse me, gentlemen, it was seemingly got rid of very easily, I must say, for the majority of the committee shifted it off very easily. I know it takes something to reverse this idea. I realize that fact. I like a bold man, and if there is an emergency, that he has the stamina to stand up and meet an emergency. This is an emergency, and we want to take hold of it like men.

While I do not like to impair the interest of any man or any set of men in business, yet here is a great evil. It is not simply the evil in just drinking an intoxicant, that is not all the evil there is in it. Of course my friend from Washington portrayed what the results of drinking these intoxicants led to. We might spend hours here in detailing this. It is the experience all over the country, but saloons are places where, to my understanding—though I am not a customer in any of them, either at home or abroad, but the great evil amongst them is the allurements. Saloons are made most fascinating, they are made most enticing, they lead the young, not only the young men, but the youth as it were—lead them in there, and if I am able to judge of what I hear, there are not many fine examples set or virtues set forth there, but they are places that are calculated for enjoyment of that class, and consequently it is continually leading our youths and our children, as fast as they get old enough—it is leading them into those places which I think are very contaminating, and I think it is very injurious to the general public. It may not be injurious, you will excuse me—to a certain per cent. of people, but it is very injurious as a whole, and for this reason I feel thoroughly to endorse the report of the minority and give the people the privilege and the opportunity of exonerating this body of men. We

do not want to bear the responsibility of saying that we have not the manhood, the stamina, to step forth and look after this matter. It is one of the most important interests. It is growing. If it is an evil, which I say it is, to a certain extent, it is an evil, and shall we leave it and not undertake to do anything to stop its progress, or shall we stand up like men and do what we can to stop such an evil that is growing in our midst? There are many evils and that is one of them. While, as I said, let me repeat, there are other avocations that perhaps are remunerative, that are of a worse and of a lower character, and let us handle these matters with wisdom and with judgment. I am not opposed to the men. Many men are in the business that are my friends, and I believe that I am their friend, in many respects, as citizens, but here is an evil, gentlemen, that we have either got to shoulder or let the people dispose of it, and that gives an opportunity for the people to take this responsibility off from our shoulders and say what they will have.

Mr. DRIVER. Mr. Chairman, after listening to my friend, Mr. Ivins, from Saint George, I thought that I would like to make a few remarks upon this subject. I have no doubt in my mind but what every word that he has spoken is true, and that his experience in the country from which he came has brought him into contact with men who have been guilty of these crimes, and these crimes have been traced to the improper use of intoxicating liquors. I am also with him on this proposition. If it was possible that by this Convention endorsing this minority report and that it would forever prohibit the sale of intoxicating drinks in these United States and make of every man, woman, and child, water drinkers, I would be in favor of it. Some have suggested that I am engaged in the sale of intoxicating liquors. I am. I never went into that business with the idea of

making money. In fact, I am one of those unfortunates who in the faithful discharge of his duty in certain directions in this Territory—was suggested—I don't know how to term it, I was promoted. The reputation that I had obtained from the faithful discharge of my duty induced my friends to try and improve my condition. I was recommended from the president's office to go to William S. Godbe and ask him to give me employment. William S. Godbe at that time was a dealer in drugs and intoxicating liquors. Up to that time possibly in all my life I had never tasted liquor. I had never smoked a dozen cigars in my life, and at that time I was thirty years of age. I have listened to this gentleman narrating these awful details of crimes that have been committed through the use of intoxicating liquors. I have never seen the effects myself. Possibly I have not been associated with the class of persons that he has been brought in contact with, and I will say, Mr. Chairman, that if this is the result—the sale of intoxicating liquors, and that became universal, it would be better that we had prohibition to-day and for all time. I do not think that we should engage in any occupation that has a tendency to destroy life, and I would think that it would be proper and right for this Convention to deal with all subjects where it can be proved in the history of the world that human lives have been sacrificed in its support.

We know if we read the history of the past that religion has had a great deal to do with the sacrifices of human life, possibly has cost more wars and bloodshed than has the sale of intoxicating liquors since the first time that the still was discovered. I never hear any gentleman say we must abolish religion because of the massacres or persecution of one class of Christians by another. I have never heard anyone attempt to stop the water that

flows between Utah Lake and Salt Lake, because some people have been drowned in the river. My idea is that if we want to enforce this prohibition article, if we want to keep the people from intoxicating drinks, convert them. Convince them that it is wrong to drink it, and use it, in any form whatever, and when you have done that you don't need a prohibition article. Now, Mr. Ivins has made the remark that he knows the people of this Territory, that they are in favor of this thing, and this little minority report will accomplish it all. It will do nothing of the kind. Here is a community in these valleys that have lived here a number of years. There are men over them for whom they have the most profound respect. They would give up their lives for them. They have a book in their Doctrine and Covenants called the Word of Wisdom. If its power and influence in this Territory is not sufficient to make temperance men and prohibitionists of every man, woman and child in this Territory, I do not see how the introduction of this minority report or this article in the Constitution or out of it is going to accomplish anything of the kind. It will not do it. It will make sneaks of men. It will make honest young men to-day dishonest. I will show you one little instance, if I may be permitted. If this article is enforced, it will not stop the introduction of liquor into this Territory. There are certain kinds of business that cannot be carried on without brandy, or whisky or alcohol, alcohol, especially, in the preparation of certain medicines. Now, for instance, I will go—after this article is inserted in the Constitution and the people have voted on it that we shall have prohibition, I will go into a drug store. I will single out the Co-op., in preference to any other [laughter]. They have three or four young men in there, honest young men, sons of good families, sons of pioneers in these valleys. Their fathers have known the history of the people and

have been associated with them for forty years, some of them. I go in there and I say, "Sir, give me a pint of alcohol." This good young man, a member of the mutual improvement association, and possibly teacher in the ward [laughter], will say to me, "We don't sell it." "Well," says I, "I must have it; I don't need it for a beverage; I don't drink it;" and I wish right here to say to this Convention that I do not use it either, and I do not drink whisky, but you will say to this young man, "I have a sick wife; I have sick children, I need this alcohol to burn." The young man says, "We don't sell it." Well, you start to go out of the store and the first thing you know you are called back; he says, "We don't sell it, but we sell liniment. I can let you have a pint of liniment." "Well," you say, "give me a pint of liniment." You take it home and examine it and you find it the very article that you asked for in the first place, that the young man said he did not sell. I say you make young men liars and frauds. I say that this is wrong, to drink liquor to excess, to get drunk, to encourage gambling and all this kind of things, and if I had my way, if a man got drunk and came up on the street to annoy his neighbor or any citizen, I would put a ball and chain on his leg and make him work out his fine on the public streets; but I say it is wrong for men to say that the use of wine is altogether improper, that the use of liquors is altogether improper. I know it is not. I have had people come to me—female relief society ladies [laughter]. They say, Brother Driver, "I want a pint of wine for the sick." I give it to them. They say, "Bless you, God bless you." [Laughter.] The next day possibly the husband of this lady comes in and he wants a bottle of wine and I sell it to him; he says, "You are a sinner." Now, I cannot see it. In one case if I give a bottle of wine I am a saint, in the next, if I sell it, I am a sinner. Well, now, I believe in the proper

use of all things, and when they are properly used and not abused, when they are used for the purposes for which God created them, and gave men knowledge how to produce them, it is no sin or crime, and I will say one thing, that there is no more danger of men bruising their wives' heads, or killing their children, or striking down their fathers or stealing, or doing anything of the kind through the drinking of one glass of wine than there is in going to a church and hearing one minister abusing the whole community and raising an emotion in the audience that creates mobs and finally ends in a loss of life.

Now, my doctrine is, abolish everything that you can ever read of in the history of the world that has ever been the cause of one person's death and especially those that have been the cause of the death of many thousands, and where would they be? The gentlemen say we must not take this whisky as a beverage. Why not include everything else? Why not include Jones' ale, Bass's ale, Ginnis's stout, Moritz & Keyser's beer, Hires's root beer, and everything else, and when you get through the whole of it, when you have told us what we shall not drink, be kind enough to tell us what we may drink, and then we will know where we are at. Now, I do not want to be understood in this Convention that I am speaking one word in favor of drunkenness, nor the temperate use of intoxicating liquor; but I say this one thing, that the gentlemen that have introduced this article do not know what they are doing. They are wise men, good men, benevolent men, religious men, but they do not understand the outcome of this article. They cannot prohibit it. It will be shipped into the city and all over this Territory and come back itself labeled all kinds of things, possibly vegetables, with a demijohn in the center of the box, and in all kinds of things, groceries, and everything else, and the people will have it if

they need it, and my doctrine is, convert them—convert them by your example and by your precepts that they should not take it, that it is injurious to them; and I say when you have done that you will have no use to incorporate in the Constitution an article prohibiting the sale of intoxicating liquors for a beverage.

The committee, on motion, then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. EVANS (Weber). Mr. Chairman, there is no doubt but that if liquor could be successfully prohibited the journals and records of crime would be greatly reduced and mankind no doubt benefitted. I believe it is stated by some of those who have studied the question that there is more money expended for the use of liquor than there is expended for the combined uses of food and clothing. All these facts, together with the myriads of people who indulge in its manufacture and in vending the same, are appalling.

At the same time, I cannot help but agree with the gentleman from Utah (Mr. Maeser), who says that the question is a practical one, rather than a theoretical one. Gentlemen of the committee, will a prohibitory law in the Constitution reach the evil which is intended? It is very clear to my mind that it will not. You cannot legislate away the appetite of man. You cannot, by putting a prohibitory law upon the statute books, prevent the sale and use of alcoholic spirits.

Mr. CORAY. Could not prohibition prohibit in regard to Indians—did not the prohibitory law passed by the government prevent the sale of liquor to Indians?

Mr. EVANS (Weber). That law is rather more stringently enforced than others, and yet it does not prohibit. But, gentlemen, this question is not a new one. We have experimented with

it throughout the United States. Take the states of Maine, Kansas, and Iowa, and in the latter two states such laws have proved to be complete failures.

Mr. MILLER. Will you dare to assert that the prohibitory law in Kansas is a failure?

Mr. EVANS (Weber). I say in part it is.

Mr. MILLER. I deny it.

Mr. EVANS (Weber). Well, there is simply a difference of opinion between the gentleman and myself. I will come more nearly to the people at home, and give some little practical experience which we have had here. I, too, like the gentleman from Washington, have had occasion to prosecute many people who were charged with crime, and many crimes that have been committed have been directly traceable to the use of alcoholic spirits. But, gentlemen, there was a time in Utah when the city council had the power, and I believe they have it yet for that matter, to prohibit the sale of liquor within the territorial boundaries of the municipalities. At Provo I happened to have the honor of witnessing the prosecution against the violations of the liquor law. At that time there was a law on the statute books which permitted a person desiring liquor to go to a drug store and sign a certain register or take a certain oath that he was sick. At that time drug stores were the principal means of carrying on a successful business. They grew rich. The use of liquor did not diminish. The officers undertook in good faith and in honesty to enforce the prohibitory law and it proved to be a hollow mockery. We found young men, and old ones, so far as that is concerned, going into these places, committing perjury, declaring to the druggist that they were sick, and we found crime in those places reeking from cellar to garret, and yet with all the moral forces and the forces of the execution of the law by the officers, the whole matter was a complete failure. I will tell you,

gentlemen, why it is a failure and why it always will be in any locality, and that is this: According to the Constitution and laws of the United States, it is an interference with inter-commerce between the states to prohibit the shipping of intoxicating liquors from one state to another, so long as the packages are not broken; while the liquor is in its original package the laws of Congress require that they may be shipped from one state into another, so that whatever law we may pass here, whatever we may put into the Constitution, we cannot exclude the importation of these liquors in the Territory or new State of Utah.

Now, can any gentleman so deceive himself as to say that if liquors can be shipped into this Territory the sale of them can be prohibited? The experiment was tried at Logan. A like failure was made there. The experiment has been tried in other localities, and the only way by which this law could be made effectual would be for the nation to enact laws to prohibit the manufacture and sale of liquor, and indeed I believe it would have to be international before the execution of the law could be properly carried into effect. I believe in leaving these things to the moral agencies of the community. They do very much good in that respect, and I commend their efforts in that regard, but I do say that a law written in the Constitution of the new State would be a complete failure. It would be a hollow mockery. We would find men vending liquor, drinking it in as great quantities as they drink it to-day, where they can go openly into a place where it is sold and satisfy their thirst.

In those localities where liquor is prohibited by law we find that the community is deprived of the revenue. Not only that, but we find that people send to distant points and receive it, and when they receive it they drink it in larger and more excessive quantities than they drink it where they can get it

at will. Another thing, now, gentlemen, with respect to this question which we have before this Convention, and it is a very serious one, and that is the danger in which our Constitution will be placed if we undertake to insert this, even as a separate clause, because if that be done, already there is some dissatisfaction with what the Convention has done. People will conceive the idea that by submitting it separately it may carry and that if it does carry it will be inserted into the Constitution as a part of it, and an organized movement will be made throughout Utah to defeat the very Constitution which we are here to frame. Besides all that, the committee has stated in this report it is nothing but experimental at least. Insert it in the Constitution and it will be difficult to have it amended. Leave the matter to be dealt with by the future Legislatures, and if it then be found to be a mistake the Legislature can repeal it, if it ever should enact it, even upon the floor of the Legislature. With the experience that I have had upon this question I should vote first, last, and all the time against prohibition, and yet I do not desire to say that I believe in the use of these liquors in the excessive form in which very many times they are used by various individuals.

Mr. MILLER. Mr. Chairman, the question of prohibition from the beginning has had a very hard chance for life in the committee of committees and in the committee on schedule, future amendments, and miscellaneous, and I am glad to see that it is in such a thriving condition to-day. It is a live babe, gentlemen. It is going to grow, and in the future it will master the situation. I believe that all the arguments that have been produced so far by the opposite side amount to nothing. They are only assertions, old straw that has been threshed over in regard to this question in every state where it has been brought up. The gentleman from Weber who has just taken his seat

asks, will a prohibitory law cure the evil? I say, yes, and I wish to emphasize it that a prohibitory law with officers under oath to enforce it will cure the evil. He also made the remark that the law in Kansas was a failure. I want to inform you that even the Kansas Pacific railroad and the Santa Fe and the Rock Island recognize that law in their journey through the state, and I claim that it is not a failure in Kansas. It is true the liquor traffic is not annihilated, but it is prohibited, and there is no crime that is annihilated by any law that has been placed upon the statute books; but I say that if a prohibitory law shall be placed in the hands of men who will see to the enforcement of it, then it will not be a failure, but it will work the object for which it was intended. I infer from some of the remarks that were made this morning, especially by the gentleman from Weber (Mr. Driver), that he has been reading some of the old cast off arguments that have been hurled at Kansas. In his remarks this morning, he stated that it would only throw the business into the drug stores and there they would use the blind tiger, and he would go in and he would call for liniment or call for beef tea or call for lemon juice, or any other name that he might call for, and the clerk would hand him out beer or whisky, or intoxicating liquor of some nature. Now, I want to state to the gentlemen upon this floor that Kansas met that and she crushed it out. She laid her hand upon the tenement, the house in which the blind tiger was run. So that the law can be enforced in regard to the blind tiger, or sage tea, or catnip tea, or liniment, or whatever you may call it. All we need at the helm is a man that will guide and direct the ship of state and see that the laws are enforced. I do not believe that the gentleman from Weber who closed the remarks this morning before recess is a very close observer. If my memory serves me right, he said that he had

never seen any of the evil results from liquor that had been stated upon this floor. If my memory serves me right, I saw the gentleman one evening when he was very warm under the collar through beer.

Mr. DRIVER. No, sir, you never did.

Mr. MILLER. I heard him get up and ask a gentleman if he had ever been in the Blackhawk war.

The CHAIRMAN. We cannot permit that kind of remarks.

Mr. KIESEL. I call the gentleman to order.

Mr. DRIVER. I wish to say that is false in every particular.

The CHAIRMAN. Proceed, Mr. Miller, in order.

Mr. DRIVER. And I want the chair to understand that it is a lie.

The CHAIRMAN. I will say, Mr. Driver, that the direction of the chair must be observed.

Mr. MILLER. I did not wish to cast any reflections upon Mr. Driver. I just merely desired to call his attention to a fact that did transpire, that is all.

Mr. DRIVER. It is a dastardly lie.

The CHAIRMAN. Proceed, Mr. Miller.

Mr. MILLER. Then the gentleman says the only way to cure the evil is to convert the people—convert the drunkard. Mr. Chairman and gentlemen of this Convention, if a man is in the grasp of habit it is impossible for him to release himself without some power coming to his aid. If a man has contracted the habit and love for intoxicating liquors, it is impossible for that man through his own individual power of will power to release himself from that habit. Hence, we that advocate prohibition do it from a humane standpoint and from a desire to help our fellowmen. Mr. Chairman, I have been brought under the damnable influence of intoxicating liquors, and as the gentleman from Davis said "I am terribly in earnest in regard to the suffrage question," I am in earnest in regard to this. I say that it has entered

the households of thousands upon thousands in our fair country, and families have been ruined. Though I do not wish to be understood, Mr. Chairman, as having anything against the gentlemen who are engaged in this business, I have not one thing in my heart against them. It is the business that if I had my way about it, and had the power to do so, I would wipe it out of existence, not only out of the United States, but out of the entire world.

Now, Mr. Chairman, I had almost hoped in the very beginning that the merits of this question might not be entered into here upon this floor. I had no thought myself of entering into merits of prohibition, inasmuch as I do not believe that this is the time or the place for that. Our petitioners who come before us, gentlemen, come asking that we insert this in the Constitution. They come to us asking that we give them the privilege of voting upon this to submit it to them as a separate proposition and allow them to be the judges whether or no they desire prohibition in the Constitution or not, and if the measures shall have passed (and I haven't the least hopes that it will), but if the measure shall pass through this committee of the whole and shall also pass through the Convention at its third reading, and shall go before the people of the Territory to be voted upon as a separate measure, then will be the time to enter into the merits of prohibition. Then will be the time to hold before the people the merits and demerits of the question. But as I also anticipated after the first speaker had taken his seat this morning, I discovered at once it would be impossible for me to make any remarks upon this without going into the merits of prohibition. In regard to the report from the majority, I look upon the majority report as meaningless—as a makeshift to evade this question—a kind of a makeshift to shift the responsibility from the committee onto the shoulders of this Convention;

and now seeing we have proceeded so far, I am really glad that there have come before this committee two reports, that of a majority and a minority. Now, Mr. Chairman, in regard to this being an experimental question, one would suppose from the remarks that have been made upon this floor by the opposition, that it was an experiment. They seem to know all about it, and I claim that so far as Kansas is concerned, it is not an experiment, but it is a real fact and that prohibition does prohibit. But Mr. Chairman, it did not prohibit until the people had united upon every hand to put down the evil, and until they demanded from the keepers of the law that they should protect the prohibitory law as well as all other laws upon the statute books. And I see no reason why, Mr. Chairman, prohibition may not be just as successful here in Utah as in other places. They tell us that we are peculiarly situated here, that we are set down in this intermountain region, surrounded on every side by states who have placed no restrictions upon the liquor traffic, and hence if we pass a law like this, we will become the dumping ground for the refuse of these other states. Don't believe it; don't believe it.

I do not believe that there is a lawyer upon this floor, who is in love with his profession, but what, if he was called upon to protect the prohibitory law, would throw all his being into it and would defend it from every standpoint. If he would not, then he is not in love with his profession. It is true, there may be as there were in Kansas, county attorneys elected to that position who were scallawags. They were bought up by the element that desired to have the prohibitory law become a nuisance. But, sir, those things were removed. Now, in regard to legislation, I do not believe that any legislature in any state can legislate against this and make it a success. I claim that it must become a part of the organic law of the state, in order to be made a success. Now, gen-

tlemen, all our petitioners ask for—in the minority report they have given you their feelings and their ideas. We do not ask you, gentlemen, to commit yourselves in regard to next November. A vote to send this before the people does not commit you. Neither is it for or against prohibition. It just merely leaves it in the hands of the people to vote it up or vote it down; and I claim that the petitioners ought to be recognized, and if I mistake not the gentleman from Davis in his determined fight to bring woman's suffrage before the people as a separate article appealed to this Convention in like manner and held up the fifteen thousand petitioners that had petitioned this body to submit woman's suffrage as a separate article. I know that the petitioners who have petitioned this body asking that prohibition be submitted as a separate article do not number less than ten thousand.

There has not one petition come into this body, sir, asking that it be not recognized, and I claim that we ought to recognize the petitioners who have thus asked us to give them recognition.

Mr. ROBERTS. Will the gentleman submit to a question?

Mr. DRIVER. May I rise to a question of personal privilege?

The CHAIRMAN. You cannot rise to a question of personal privilege in committee of the whole; when we get into the Convention you can.

Mr. ROBERTS. I ask the gentleman if he does not recollect a petition that I myself introduced, signed by more than two thousand people from this city, asking that prohibition be neither put in the Constitution nor submitted as a separate article?

Mr. MILLER. I have no recollection of it, sir. It may have been presented when I was not present.

Mr. ROBERTS. It is a fact, however.

Mr. MILLER. If that be the fact, Mr. Chairman, I recall the assertion that I made.

Mr. THATCHER. Mr. Chairman and gentlemen of the committee, this is a matter that demands careful attention, as I view it, of this honorable body. Petitions have come here signed by prominent men from various parts of the Territory, and while it may appear a waste of time to discuss this subject, I do not think it can be passed by without giving it the attention it deserves. I listened with profound interest to the remarks made this forenoon by my friend from Saint George, and my emotional feelings were moved at the beautiful pictures, touching in their nature, which he drew, and I would call your attention to the fact, as stated by profound writers upon this subject, that the people of England and the United States expend enough money each year for intoxicating liquors to buy their bread and meat. They spend more money for intoxicants than would clothe them, and certainly there is no evil with which civilized people have to meet and contend greater than the drinking habit. Every building on the shores of Great Britain might be wiped out by a single calamity, every rail of her roads might be torn up and in an hour her merchant marine might be blotted from the seas and her war vessels sunk to the bottom of the ocean, and yet if her people were to be temperate and should cease to expend their hard earned earnings for this demon in disguise, they could replace them with the money saved in five years, so that the use of liquor in that country and in this has proved a greater scourge than war and famine and pestilence combined. And when we bring it down to the home, many sad pictures could be drawn that come near to our hearts here in Utah.

Twenty years ago, I remember to have seen on the quiet streets of Logan. early in the evening, the winter snow glistening in the cold moonlight, two friends struggling in a physical contest, all in good nature; one having tapped

the other gently in good humor upon the cheek, angered him, because his blood was fevered with whisky. An angry speech, a few steps backward, out leaps from the scabbard the deadly pistol, and the messenger of death sped through the heart of his friend, and his heart's blood gushed upon the pure white snow. How well I remember how his slayer was tracked by night and by day for more than a week, and the angered citizens of that quiet village were wrought up in their feelings so that when the half-starved drunkard was finally caught, the patience of the people broke over all good judgment, they overrode the law, taking it into their own hands, lifted to a telegraph pole the slayer, and a leading citizen, while watching the people do a thing of which they have always been ashamed, took sick and in a few short moments dropped dead upon the streets in broad daylight. Thus three lives were lost through the use of whisky that fevered the blood, and our little town north has never forgotten that tragedy. She will never be able to wipe from her record that stain of awful triple murder. And yet, gentlemen of this Convention, how shall we meet this evil? Shall we not be consistent and reasonable in our thought and in our legislation? I think we should be. Now, permit me to give you, having in our minds this sad experience to which I have referred, our attempt at prohibition in the north. Public sentiment was wrought up through the press and from the pulpit. Ninety per cent. of the people felt just as my friend on the left has expressed himself, that that great curse should be wiped out, and they petitioned the city council to enact an ordinance that would accomplish that end. What was the result? Instead of three saloons under the eye of the guardians of the law, an attempt to prohibit the use of liquor in that town developed sixteen dives—dark cellars in which liquor was given to all classes of people surrepti-

tiously. These dives became holes of iniquity and nightly carousals were had there, notwithstanding we doubled our police force and had spotters and spies who were employed and paid a heavy salary to root up this evil. The people's sympathies went with the illicit dealers, rather than with the law or with the detectives. Thousands of dollars were expended to put down, and as my friend on the left says, crush it out, but sumptuary laws, in my opinion, will never destroy man's agency. The white armed wife and the delicate sister may lift out of the ditch the husband or the brother, but there is agency, and if men through the exercise of that agency cannot be controlled through their moral and religious convictions, I have grave doubts as to the accomplishment of that end by sumptuary laws. In eighteen months, under prohibition, the town of Logan lost all revenue, which is but a small point, for the people there would give half of all they have in the world if they could only accomplish prohibition in the use of liquor, opium and morphine, for they are kindred devils under the same form. But, sir, our experience in the north proved that in eighteen months of an attempt at prohibition, there were sixty-two arrests by the officers of the law and convictions for drunkenness and crimes growing directly out of the use of liquor. We employed lawyers to fight it down before the courts, we employed detectives to root it out of these dark places. All to no avail, until at last the people were as anxious to petition the city council for a high license and regulations as they were in the first instance to petition for prohibition. It was scattered all over that town and it acted just as a loathsome, contagious disease would do.

And, gentlemen, as I believe the attempt has been done recently in Salt Lake City—drive an evil off from Commercial Street and scatter it around this city as you scatter the small pox—it is better

to keep it within control and under the eyes of the guardians of the law than in undertaking to prohibit, to allow it to grow up in every part of your cities. There was twice as much liquor drank in the town of Logan during an attempted prohibition as was drank before or immediately after. Sixty-two arrests, as I stated, occurred in eighteen months, but when they introduced high license—twelve hundred dollars a year, the utmost extent of the law, five saloons opened and in eighteen months under that system the arrests were twenty-seven instead of sixty-two, and now we have but three saloons in Logan. I would that we could get along without them, but those saloons are under the watchful care of the officers of the law. Our experience has taught us when there is a decrease in the use of liquor it is under the moral influences which ministers of the gospel, so called, exercise. This is their mission. That is the mission of Christian societies, young men's Christian associations. That is legitimately the field in which mutual improvement associations and Sunday school teachers should occupy their time and attention. Gentlemen of this honorable body, if we could secure prohibition in this fair and new State which we are now laying a foundation for, how gladly would I vote for it, but experience and observation lead me to this position, however I may be regarded by my friends, I shall vote for the rejection of this clause and leave it with the Legislature and with the cities.

One moment upon the proposition contained, even if it should be passed. Why should we prohibit the manufacture of these stimulants? The law will permit liquor to come into this new State, as I understand it, just as it came into the city of Logan when we were trying to prohibit. Why, it used to come in I believe from my friend from Ogden.

Mr. KIESEL. My trade increased during that time.

Mr. THATCHER. Yes, it came there as mineral water.

Mr. EVANS (Weber). You would like to have prohibition, Mr. Kiesel, would not you?

Mr. KIESEL. I have no objection on that account.

Mr. THATCHER. It came into the town as mineral water and to citizens who had great pride in their name it would sometimes come incased in dry-goods and crockery cases; but at all events, gentlemen, I do not believe, whatever else we do, that we should seek to attempt to curtail the business in this new State of manufacturing beer or wine or alcohol. The solution of the question of the sugar factory may devolve upon that point. If we prohibit at all, let us prohibit the use, but not the manufacture. In Utah, we will rival California in our business and the beet progress may lift up our sugar factories out of their present condition of bondage and of debt. And so, gentlemen, I say I shall vote against it. I can readily understand how people in the country can be induced to vote for prohibition. The petitioner comes along, "Won't you sign this petition and won't you vote for the insertion of this particular clause?" "Why, no, I would rather not, I do not believe in it." "What, you a Christian—you a so-called Saint, believe in drunkenness in preference to prohibition?" How few have the moral courage to refuse to sign or vote for such a proposition. I think this has nothing to do with the Constitution and I shall vote against it and leave it with the Legislature.

Mr. HAMMOND. Mr. Chairman—

The CHAIRMAN. Do you speak on any other gentleman's time?

Mr. HAMMOND. No, sir-ee, if I cannot get through on San Juan's time, I won't speak. [Laughter and applause.] If there was any subject that has come before this committee or the Convention, this is one I believe I should turn loose on, but I have come instructed on

this subject and am the only one from San Juan. It is true the minority—quite a respectable minority, two of whom consist of one Christian and a Cherokee Indian by birth, owner of large mining interests there, and I believe he is a Christian—if we have any in San Juan, and he on my departure—he would have voted for me if he had the vote, but through some tinkering of the Utah Commission or something else that precinct was thrown out and he could not vote [laughter], but he insisted upon having a provision in the Constitution of this new State forever prohibiting the manufacture or the sale of intoxicating liquors. Now, I would like to represent that gentleman as correctly as I can. Now, other than that no voice have I heard from San Juan in regard to their position upon this question. To revert to a little of my experience in this matter, from 1832, I think, when the first wave came over from the east we—we New Yorkers are called Yankees when we get down in Virginia—there was a temperance wave came over there about that time and our great Christian people on Long Island, where we had no drunkards at all, except one gentleman by the name of Silly Billy, we used to call him—used to get him to grind up our old axes, that we would give him a pint of New England rum to turn the grindstone to grind up the axes. Other than that, I do not know of one soul that was called a drunkard in that town. After this righteous wave the people would not have cider. I returned there after twenty-one years and a half to my native town, making the entire circuit around the world and visiting nearly every climate, except the Antarctic, and my experience was this, where we had one old Silly Billy to turn the grindstone, we had scores and hundreds of them under the effort to prohibit men from getting drunk. That was my experience in my own native town, and it has been largely my experience in every

state, town and city that I have traveled in from that time to this, no matter where the clime. Man, if you say to him he shall not get drunk, will break his neck finding something to get drunk with. On the Sandwich Islands another righteous wave came over there in my experience, away back in 1843. They tried to prohibit the natives from using a root which makes them drunk. It don't make them so crazy as our rotgut whisky; they get good and boozy and lie down and go to sleep. I never saw them fight in my life. Well, through legislation instigated by our Christian friends, they actually prohibited everything of that kind, and my experience was the same there. Where we found one drunkard in former times, where there was no prohibition—free trade and sailors' rights, why we found scores and hundreds of them, full of leprosy, full of sores, full of everything that is mean. Now, I am opposed, as has been said by this gentleman, Mr. Miller—the cyclone gentleman [laughter], if I could wipe this out by one stroke of my pen that the stuff should be banished from earth, I would do it; but, sir, in doing that, I would have to wipe out corn, wheat, barley, potatoes, peaches, everything else that I know of that is good to eat, nearly. I would have to sweep the whole off the earth, for they will make it. They will manufacture it in crooked stills, and moonshine stills. I remember down here in Sanpete, not long ago, they found them making beer with a little crooked still or something or other. Well, so it would go. There is no prohibiting.

Mr. THOMPSON. Mr. Chairman, I am in favor of prohibition in the strictest sense of the word. I think it is the greatest evil that exists in the world—the use of intoxicating drinks and allowing it to be publicly sold. It induces people to indulge and by licensing saloons men acquire a habit that they cannot control, and if we can come to

their rescue—and it is two-thirds or three-quarters of those people that do not wish to indulge to their harm, but they cannot control themselves, and I think it is the duty of the members of this Convention and will be more to their credit than anything that they can do, to vote to submit as a separate article to the people prohibition, and let the people vote on it, and then I think if the people will vote to have it put in the Constitution it will be the best thing that the people can do, and then after that is done, it is an organic law, and the officers that are elected in the State of Utah to execute the law will execute the law as thoroughly as they will do in case of murder and theft and other crimes. It will be a success and there will be greater prosperity in Utah by this course than anything that will ever come to Utah. It leads men into vice, sorrow, trouble, and woe. Why not prohibit it? And to say that the people of Utah Territory cannot prohibit the sale of liquor here for purposes that will degrade the community, is not saying right of them. They are able, they have the wisdom, they have the energy, they have the power, if they will exercise it, but the trouble is the past experience has been the failure for the reason that they have just tried it for an experiment and they have calculated, "Well, in two years, if we do not make a success of it, why, then we can change it," and they have just been expecting to change it when the two years come around, but if they started in with a determination to accomplish that purpose, they are able to do it, and we would receive the benefits of it. Now, I do not say that we shall not sell liquor in the country for useful purposes. I believe it is right to have it for sale, and I can tell you one thing, gentlemen of the committee, that if officers are on the lookout, as they are sworn to be, to execute the law and do their duty, the men that indulge in drink and that get up these private

places to gather together and indulge in drink, and men sell in a private way, they will find the marks that will lead them to those places, because men that drink do not always keep straight, and there will be such conditions that officers can ferret out these evils, and it is only saying of us what is not true to say that we cannot handle this matter, to say that the people of Utah Territory cannot handle this matter; I think it is underestimating them; they are able to do it, and to do it in a way that will be a benefit to the people of Utah at large. Where will you find a man that has been working hard and laid up quite a small amount of money, then because of these saloons that are open to the public, why he, because he cannot control himself, will go in there and then spend his money, in a day what he has been six months earning, and then it just leads men into vice, into gambling, running chances they will not otherwise indulge in; and if we can come to the rescue of such men, and hinder them by laws that are enacted and executed here, we are doing the community at large a great benefit, and I will never admit that we cannot handle this matter. As I said before, we have only just tried it as an experiment and we have been just calculating that after we tried it about so long, it will be a failure. If the officers looked after this gentleman over here, whom I have no fault to find with in the least, when his business as he claims was increasing during the time prohibition was in force in Logan, why he would have been stopped in that matter and his business would have been cut short instead of increasing.

Mr. FARR. Mr. Chairman, I do not wish to say but a very few words on this subject, and wish what I do say to be said in candor. I do not wish to create any excitement or hope there won't be, although it is quite an exciting question, I admit. I, of course, have given encouragement to the pro-

hibitionists. They have come to me and wanted to know if I was for prohibition. I have told them invariably that I was a strong prohibitionist and am still to-day, and I am not alone in it. The great Lawgiver of the universe is a prohibitionist, and He has made some of the strongest laws of prohibition that we have on record in the great constitution—that is considered the great constitution of the Christian world, the Bible. There are ten commandments that prohibit murder, stealing, drunkenness and all manner of vice and crimes, and I tell you, gentlemen, there is a penalty in every one of them and the penalty will be inflicted and we can pass laws to prohibit and will have a right to, but I am opposed to passing any law in this Convention. I do not propose to lumber up our Constitution with anything of the kind. That should apply to the Legislature. That is where it belongs. We can pass laws and so can the Legislature, to prohibit, but will it prohibit? And the way the great Lawgiver, whom we claim has all power, the Creator of the heavens and the earth, why does not He wipe out all this business of sin, of violating the ten commandments? Why don't He wipe it out? He can do it. He is able to do it; He don't choose to. He chooses to give every one their agency and we can make a law to prohibit people making liquor and selling liquor, and so on, but I can tell you it will cost millions. But we can do a great deal towards encouraging the good work and the good Christians. I say go on and use all your influence you can to prohibit, and say I, when you come to make laws to prohibit you cannot do it, but it is right and just we should make laws—the future Legislatures should make laws and they should place the highest license that it is possible for the people to endure, and through that license they will succeed a great deal in putting down that terrible sin and evil, and as I have told the prohibitionists in public

and private, the best thing and the nearest thing to prohibition is to establish and enact woman's suffrage law. That will do the most for it, for nearly every woman in the country with few exceptions—I am sorry to say it—but with few exceptions they will vote for men that will pass measures and use their influence against the selling and using of intoxicating liquors. Nearly every man on this floor that believes in and encourages liquor—still they are opposed to prohibition, because they know what they will do, so, I say now, gentlemen, and I say it to the ladies, if they will hear it, if you want to get prohibition, you sustain woman's suffrage, for I can tell you they are the individuals that will vote against the selling of intoxicants. We have had that portrayed here by gentlemen, the sufferings of women and children, and they feel it, and they know how it goes, and they will use their influence to put them down. And now, gentlemen, we want to let this proposition business pass by. I feel as though we should not spend our time on this. Let the Legislature pass as stringent laws as they can to prohibit, and it will accomplish more than we can accomplish here in this Convention. We do not want to encumber our Constitution. We do not want to send it abroad with that proviso in it. Let them go free and untrammelled. We want all the votes we can, for I am anxious to have a State and I expect to get it, and I expect there will be opposition to it and if we encumber it up with provisions of that kind we will find heavy opposition. I do not wish to take up your time. I wanted to throw out a few remarks of my feelings in regard to that matter, as I am committed to prohibition, but not to insert it in the Constitution. I cannot do it, so I leave it, gentlemen, with you.

Mr. PARTRIDGE. Mr. Chairman, I have had some experience in observing the evils of the liquor business and the

benefits to be derived from prohibition. I am in favor of anything that I could be convinced would mitigate or lessen the evil of intemperance. I have felt to give considerable consideration and weight to the petitions which have been sent in here asking for the submission of that question in a separate article, and I have been somewhat undecided in my mind which way I would vote. But what I have seen here to-day and witnessed has pretty nearly decided me. I have thought that the people should have the privilege of voting and the majority to say how it should go, but when I consider the condition that we have to confront and when I have witnessed what I have here to-day on this floor, the excitement that might be raised upon this question, were it submitted to the people and become a part of the campaign, has pretty nearly decided me which way I will vote. Now, I am in favor of prohibition, or at least I want to do anything that will lessen drunkenness, and I have about concluded that high license will do that for this reason: If it is prohibited people will drink it all the same, but it will be cheaper. If there is a high license, I have reason to believe that they will drink more water, because men will not sell the whisky straight. I was speaking to one of my friends who was in the whisky business a year or two ago, and I tried to get some little information as to the amount of profits that he made on the traffic of liquor. It was in a little outside town. It was nothing of course to compare with Salt Lake City or any of these mining camps, but it was a quiet little town where farmers live, and he said that his profits or his sales were about twenty-five dollars a day, and said he, "you know that is most all profit." Well, now, I did not know that, but I was glad to hear it, because I understood from that that he was selling water instead of whisky, and I think that was the best thing that he could do for the com-

munity. I do not want by any action of mine or any vote that I may give, to increase drunkenness, neither do I want to create in the coming campaign such an exhibition in every political meeting that may be called as we have seen here to-day. Mr. Hammond called it a cyclone. Well, I am a peaceable sort of a man and it always annoys me to get into a hubbub, and I have avoided political campaigns as a rule, but I would like to see the campaign that we enter into hereafter to ratify this Constitution carried on peaceably, without any hubbub, or any noise, or confusion.

Mr. RALEIGH. Mr. Chairman and gentlemen, I do not design to go over any ground that has been gone over in this matter, but I wish to accord to everybody their rights, as near as possible. I consider it the right of every person that has the right of suffrage within this Territory, to vote yes or no on prohibition, as a separate article, when the Constitution shall be submitted to the people for ratification, and this is the principle upon which I intend to vote, not that I am a prohibitionist. I am not in any way. I believe in the broadest free will and agency of man. He can do as he pleases, good or evil, right or wrong, but he must abide the consequences. I happen to be the man that started the high license business. In the city council a good many years ago I moved to adopt that principle, and it was two weeks at that time—we only met once a week at that time, and it was two weeks before I got a second to that idea, and then it was referred to me to present a bill, and when I presented a bill, or rather when I got the opportunity of arguing that point, it was referred to me; I got up a bill and it subserved its purpose and object very well for many years. And I suppose perhaps from what I learned when I traveled afterwards, some twenty-five years ago, in the New England states, that almost every gentleman I met—it is a great temperance country there—

asked the question how we controlled the liquor traffic in Utah, and I informed them how we were doing it at that time, and they all acknowledged that it was better than they succeeded themselves and they had voted prohibition—some of them at least, as state measures.

Now, I am going to vote—and I am going to do it because I want to believe that every man who is a registered voter in this Territory has the right to vote yes or no on that or any other question—any other important question, or on any question, so far as that is concerned, as directly as possible, and not through us. I do not consider that I have a right as a member of this Convention to say that he shall not have a right. It is not my privilege, that is the way I look at it. I do not know how men take these things, but I became qualified here to do my duty. I am under obligations here to do my duty to the people of this Territory, not only my constituents, but when a point of this kind comes up, or a question or a proposition, it is my duty to accord to them the right that they inherited by virtue of the form of our government. That is the idea. Men believe that the government is for the people and by the people, and so on. Why, they are the people, they are the sovereigns, and they have the right to vote yes or no. That is the reason I am going to vote for it. I do not know how can men look at this thing that are conscientious unless they look at it in that light. Now, a great many men talk about expediency. I do not care anything about your expediency when it comes to the rights of man. I am for the rights of man all the time, everywhere, and every place; that is what I go upon. Either vote it up or vote it down, but it is their privilege to vote and I shall not look at it in any other light. I cannot possibly look at it in any other light. The people have the right to vote upon it. That is the way I look at things. I have heard men say

that the priest and the mother made the conscience of men; well, I think we better, some of us—some people in this country, I think they had better—

The CHAIRMAN. Your time has expired, Mr. Raleigh.

Mr. BOWDLE. Mr. Chairman, I wish I could see this matter in the light that some of the men here who have been talking see it. Gentlemen, I cannot say what has been said of one gentleman on this floor, that he is and has been for a long time a prohibitionist. I am not here to argue the question of prohibition, and I do not know that you will know what my opinion upon that question is. I think that prohibition is not on trial to-day. There is a deeper principle than that that is on trial to-day, gentlemen. The people of Utah have not asked you to decide the question of prohibition. They have never said to you, you decide and determine this question. They say to you, "Let us decide this question." We are not the people, gentlemen. Don't forget for a moment that proposition. We are but the agents of the people. We are not here to do our will, but we are here to do the will of the people. Whenever legislators get the idea that they are the people and that in them lies the sovereign power, it is time to step down and out. Don't you know, gentlemen, that that is the mistake to-day? That in these United States the people have a growing distrust of the legislators? They have a growing distrust from the simple fact they send them to a position, and they forget the will of the people who sent them there. You have heard that cry growing up for the last two years against the legislators of our general government, that they forget the wants of the people and the wishes of the people; that they stand there to do their wishes and the bidding of the mighty corporations and to bow at the power and throne of money.

Now, gentlemen, the question that

confronts us to-day is, in the beginning of the State of Utah, are we to teach the people that lesson? The people say, let us vote upon this. Let us decide this question. You let this alone and keep your hands off of it. It is none of your business. I admit that. And I am glad the people say it. I do not want to decide this question. By no vote of mine would I vote to-day to put that article in the Constitution; but I do say that upon all great principles, when it is possible that the people can express directly their will, they ought to have that right and that privilege to do it, and you dare to deny that proposition—any man on this floor, then he denies a fundamental principle that underlies the American government. Looking down from that picture—that kindly, benign face, from those lips fell one sentence that has become immortal, "this is a government of the people, by the people, for the people," and whenever we forget that principle we forget the principle that underlies every institution of America—every one. That is the principle upon which I stand here. I want to say with reference to this majority report that I think it is the frankest, most manly report that I have seen; that report says that this is a question that ought not to be dealt hastily with. Now, what question? The question of submitting this to the people ought not to be dealt hastily with? Why, in that action there is this, that you are afraid of the people; you do not dare to trust the people; you cannot get away from it. Right in that committee report it says, it should not be dealt with hastily; they say that they had under discussion the question of submitting this to a separate vote of the people. Why, gentlemen, if the people say "keep it out, keep it out," or if they say, "put it in there," why it is the will of the people and they ought to control in this matter, by all means. Why, if I were to vote for that majority report, I would

have to throttle the voice of this coming new State on the first proposition that they have asked to be heard upon. I would have to say to them, "You do not know enough about this. You do not understand this business; we have grown large since you elected us. We came up from your side, and knew no more than you did then, but we have grown wonderfully wise in a few days, and now we say that you do not know enough to consider this and you cannot be trusted in that matter." That is exactly our position to-day. It is a question whether or not by our vote here we shall turn down the will of the people. Suppose this should be submitted and it should be defeated, what vested rights would be disturbed? What great enterprise would be overturned? What great amount of property would be disturbed? None whatever, and yet that report says that this involves all these questions and must not be hastily dealt with. It is six months almost until this Constitution will be voted upon. Have not the people the time in which they can decide and make up their minds and vote intelligently upon this proposition? I am in favor of the people every time, I do not care what proposition it is. Whenever it comes to the question, that can be referred to them. What we have heard all the time here as the sovereign power of the State—let it go to that tribunal and let us abide there and let us not make the people think that these are high sounding phrases that were made up for platform occasions, in conventions bidding for votes, and all that kind of thing, but that it is in this State a fundamental principle—that the people shall be heard, and their voice is from the sovereigns in that regard. But a few days ago there were a great many petitions came rolling in here on another proposition asking to be permitted to vote upon that proposition. We have irrevocably said, "You cannot do that. We have made our vows

to our political cause and we must pay those vows and we still pay them. We promised when you elected us here that we would put woman's suffrage in the Constitution, and although you want to absolve us from that promise, we cannot take it back, even if you were mistaken. We cannot do that thing." But there are no political pledges here, gentlemen. Here is a place where you meet the people face to face upon this proposition. And now, do we purpose in this Convention to say to them a second time, without any pledges upon us, without any duties to be performed in that regard—"You cannot be heard, you do not know enough?" Then, when we meet in Convention it will be sufficient for us to say, this is a government of the people, by the people, and for the people, and when we get on the stump we will say the same thing; when we get elected we will say, "This is a government of demagogues to control the people," and that will be exactly true. Whenever we cease to listen to that voice that comes up from our constituents, we are no longer worthy of sitting as their agents, because the agent is not greater than his principal. Therefore, gentlemen, I shall not vote for the majority report. That much I will say. As to the minority report, the result will show whether I will vote for that or not.

Mr. EVANS (Utah). Mr. Chairman, I have listened to the arguments upon this question with so much interest, in hearing gentlemen give their various experiences on the floor, that I would like to add a word upon this important question. I remember that when I was but a boy in the quiet little town in which I still reside, that in the merri-ment of childhood our schools had been collected together for the purpose of participating in what we termed the celebration of a Christmas tree upon a beautiful Christmas eve. While we were there in beautiful merriment, with one of our noble citizens among the

throng, seeking to make happy those that had gathered, that a ruffian appeared upon the scene whose cowardly form and brain had been maddened by intoxicants, and raised a disturbance at that time, and the result was that he shot down before our eyes one whom we had learned to love through his kindness and affection. That picture was imprinted upon my heart and I felt that if it was in my power, that never should a scene occur like that again by reason of intoxicants. The merriment of that happy throng turned into grief and sadness. That loving husband and kind teacher was a corpse before our eyes. The anguish of his loving wife beamed forth upon the hearts of all who were present, and in consequence of the convictions that were made upon me upon that occasion and others while it was my good fortune to mingle as a member of the city council, where I reside, I have stood as it were when I was a beardless boy beating back the inroads that were sought to be made upon the breaking down of the non-license system in our city. I was successful for the period of years that I served there in combatting back the licensing of saloons in our city. I was called away, however, for a period and when I returned, changes had taken place. High license had been instituted, and I have been forced to the conclusion that perhaps in all those years of my anxiety and zeal I had been mistaken, and in recalling back that sad scene which to-day causes my heart to throb with anguish, I call those scenes to remember that was in the day of prohibition.

It has been said here that we ought to leave this matter to the people. I want to say to you, Mr. Chairman and gentlemen of the committee, that my contract with the people, as I understand it, was laid down by them in their platform when they presented before me their contract and I accepted of my nomination upon that. Upon the

6th day of November they fulfilled their part of that contract and they sent me up here to this Convention, and I expect to fill mine to the very letter in my poor judgment. I may deviate from it, but as I shall have the light portrayed before me I shall follow out that contract to the very letter. And this question that is now presented before us was not one that entered into that contract. I am willing that the people should be heard upon this question. I am willing that when we shall finish this Constitution, when it shall roll forth from our hands to go before the people, I am willing that they should make a declaration in their coming platform and that the man that places himself upon that platform shall either stand or fall, and they may put in a demand that the officers who shall constitute our coming Legislature shall be men who will guarantee unto them by the laws of our country and of the new State that prohibition shall be inaugurated; but if that shall be done, then I shall ask the right, as an American freeman to say whether I am willing to accept a nomination if it should be tendered to me upon that platform or no. I will state briefly my position upon this question. I say that from all I have been able to glean by observation and hearing, that prohibition under the existing laws is a failure in the broad sense of the word; that states cannot control this system under the present inter-commerce laws of these United States. That cities have tried in vain, by employing detectives, by putting spotters on the trails of offenders; when they have followed those men to a successful issue and brought them before the bar of justice, the courts have refused to execute the laws that have the desired effect in stopping the traffic. I am in favor that there should be laws enacted whereby each district—each particular locality shall have the right to say that within the borders and confines of that particular part of the country where they re-

side and they control, that if the majority of the people residing therein are in favor of putting the hard hand of the law upon the traffic of liquor that they shall have the right to say so. I would be in favor of making it a penal offense—I would be willing to fix the maximum limit or punishment of offenders, and that be imprisonment, when the people in a particular locality shall declare in favor of prohibition. I would fix a maximum and I would make it a penal law that the judge who refused to enforce that that he should be deprived of his office, because he did not do it; because I believe that the will of the people should be the mandate of heaven in these questions where their vital interests are at stake. But perhaps the interest of Salt Lake City would not be the interest of Lehi, where I hail from, and for that reason, I am in favor that this matter should be submitted to the Legislature; let us go before the people upon our own respective platforms, either for or against it, either for it in part, or against it in part, if we so desire. I mean by that that we shall go before them on the platform of local option laws, that where any particular locality decide by the majority of the people that they are not for prohibition I am willing that it should be submitted, and we will go before the people with that issue and then when we shall go to the Legislature; the people will have the right to demand of us as their servants that we shall carry out to the very letter the law, without turning to the right or the left, the agreements of our contract that we have made with them when we asked their suffrages for us.

Mr. BOYER. Mr. Chairman, I have been listening with much interest to the many speakers and expecting to hear from some of them some remarks in relation to the prohibitive proclivities of the constituencies from which they hail. I will say that I come from a prohibition town, and unlike my friend and

worthy colleague from Provo, I also come as a prohibitionist, and I hope to return a prohibitionist. I do not expect to be converted to any other cause. In Springville we have had prohibition for a period of a score of years or nearly so, and it has worked well with us—a portion of the time not so well, but to-day and for a number of years in the past it has done well. I think that we there, having a population of some three thousand people, have a peaceable, quiet little city. We have made no particular wealth out of high license or licenses at all. We have no particularly large and spacious buildings or improvements upon high roads, or anything of that character that has grown out of the license money, but we have an improvement that is very noticeable in the happy homes of the many dwellers in the town from which I come. Their sons and daughters have not places to go to as are found on the north and on the south of our little town. It may be said and has been said that where prohibition reigns the dive is a necessary evil, and is a concomitant with that character of legislation. I will say that four, five, six, and eight years ago, we had the dive continuously under prohibition, and the whole fault was in the character of officers; not but what we had good officers, but those officers were usually men that would take a drink frequently themselves, and at that particular time we had judges that were not so favorable to the enforcement of prohibition laws in the first district as we have had latterly. I say to-day, that the officers under prohibition enforced the law, and I challenge the finding of any of those dives or by-places in Springville to-day. We have not got them, unless they have been established within the last two weeks. The last man that has been running a business of that character now for the second time is serving an eighty-day sentence in the jail. I believe in the principles of prohibition. I

come here representing a constituency of Springville more particularly, while I am of Utah County. They said to me in numbers in presenting an application from a religious association asking how I stood on the prohibition question, whether favorable to submitting it is an article or a part of the Constitution to be voted upon. I passed the matter around among the leading men from my town, and they invariably made this remark, "That is a question, like all other questions of innovations of a public character and of as great a character as that is in its magnitude, that should certainly be submitted to the people to be voted upon." And we stand here this afternoon claiming that that question should be submitted to the people. As the gentleman from Salt Lake (Mr. Bowdle) has stated, we are not here for the purpose of deciding upon the question of prohibition. We are only here to permit that question to go to the people or not to go to the people. It is our right, it is our privilege and our bounden duty.

Mr. PIERCE. Mr. Chairmam, this seems to have turned into a testimony meeting to some extent, and I arise to give my testimony. I was raised in the good old state of Vermont. It is a prohibition state, and sir, I state to you, and gentlemen of this Convention, that I never in my life saw a drunken man in that state until I had arrived at man's estate, and if you want an instance where the prohibition law is enforced, turn to the state of Vermont. I did not intend to speak upon this question, upon the merits of the question. I do not think the question is before us in that light. It is not a question that needs to be discussed upon the merits, but when the gentlemen discuss it upon the merits I desire to say a few words upon that proposition. Gentlemen of the Convention, one of the very first articles that we passed in this Constitutional Convention, was an article upon

the declaration of rights, following out the principle laid down in Magna Charta, and the principles in our own Declaration of Independence, that the right of petition shall never be ignored, and we have in our article on the declaration of rights declared in favor of the right of petition. I understand that there are some ten or twelve thousand signers to petitions that have come up before this Convention, asking for the submission of the question as a separate proposition. I have listened these many long days to see whether there was any opposition to this question, and I have not yet seen one single signature or petition in opposition to this question. So I say, gentlemen, that as far as we know it is the will of the people of this Territory that this question shall be submitted to them, and I for one, without stating how I shall vote upon this, say that I shall vote for the minority report to submit it as a separate proposition.

In answer to the argument made by the gentleman from Cache County, Mr. Thatcher, in regard to the original package decision, I desire to call this Convention's attention to the decision in that case. The original package decision was rendered in the United States Supreme Court (135th U. S., page 100;) after that original package decision was rendered the original packages came into the state of Kansas from other states, and into the state of Iowa from other states, but in order to meet that, on the 8th day of June, 1890, the Congress of the United States passed what is known as the Wilson law, and the case went up which was decided by the United States Supreme Court in re *rera* 140 United States, page 545, that held that law was constitutional and valid and that it could be enforced in the state of Kansas. So I say that as far as this question now stands, it is the duty of this Convention to submit the question to the vote of the people.

Mr. EVANS (Weber). The recent act

of Congress is not such as to prohibit commerce between the states on this particular question, is it?

Mr. PIERCE. No; I understand not.

Mr. EVANS (Weber). Then we could pass no law in the State which would prohibit the importation into the State?

Mr. PIERCE. That law was enacted for the very purpose that when the original package arrived in the state of Kansas the state of Kansas could confiscate it under its own local law, and that was the decision of the United States Supreme Court.

Mr. EVANS (Weber). That is true. This article which you propose to submit separately to the vote of the people prohibits the importation of these things into the State?

Mr. PIERCE. I have not examined the article very carefully. I believe the present status of the question requires us to submit it to the voice of the people.

Mr. JOLLEY. Mr. Chairman, it appears to me that we cannot altogether ignore the petitions, when they have come five to one in favor of our consideration of this matter. There are two questions that stare us in the face, that is the high license or the prohibition. The high license is simply robbing the starving children of the drunkard, that the saloon keeper is pocketing the money from the children and giving him poor whisky in return at a very high price. It is true there is perhaps one virtue in it, and that is that the rotten stuff that they drink will kill the drunkard off all the sooner, but in doing so it is robbing the children at home of that that they might have if the liquor was put down at a low rate. Now, in relation to prohibition not being a virtue, and more arrests would be made, I will have to call your attention to the early days of Montana. I was up there at the opening of the gold mines or soon after, and I found myself in a wild country—in a lawless country where

crimes were committed without any restraint whatever, until the people that lived there—the honorable part, took the law in their own hands and enforced it, and it was the same as prohibition probably would bring; there were more or less, for they hung some thirty-six men in one season, but they did not give it up at that, and to-day you can go through that country and the laws of the land are acknowledged. They protect the traveler and he can travel in safety where he could not have done at that time, and this is the way that I would view with the limited knowledge that I have in relation to prohibition.

It is possible to me that if the law was against the sale and the manufacture of intoxicants in any state that for a short time there would be more drinking done, simply because they would feel that they would do it for revenge, and for spite work, because they were deprived of having their own way; but a legitimate time—I think I would be safe in saying that there would be a limit and a restriction upon those things and the benefit would be derived by the little children, when the drunkard comes into the house reeling to and fro, having to run and scatter and hide from their earthly parent, they would be clothed better and he would come in now and then with a smile upon his face. And laying this aside, as I said before, when there is five to one that come in for us to consider this question and we are the servants of the people, and that the laws are made by the people and for the people, I consider that there is but one thing for us to do to-day, as I did when the majority came and asked us to put the suffrage clause in the Constitution. The majority asked for it, and I felt duty bound to do so on that account. Therefore, I cast my vote in that direction, and I am willing under the circumstances to cast my vote again, for the majority of the people have asked for this thing.

Mr. THURMAN. Mr. Chairman, I

have but a little to say. I will say, however, that I am from Kentucky, while men are giving their experiences as to birthplaces as affecting this question; but that is not the only reason that I have for proposing to vote for the majority report. I wish to stand on this question as I have tried to stand on about every question that has been submitted to this committee, and that is, that those matters which are more proper to be left or can more properly be left to the Legislature for their action, should be left there and not inserted in this Constitution. If a mistake is made by the Legislature in enacting a law, that mistake can be corrected as quickly as the Legislature can be convened. If a mistake is made by this Convention, we all know from the nature of the act that we are adopting here about how much expense and trouble and inconvenience it will be to rectify it. I feel that this ought not to be made an issue next fall in connection with this Constitution. The Legislature can deal with it. It has been decided by the law of the land—by the judiciary everywhere, that they have the absolute control of the question of the sale of liquor, and I am in favor that the matter be left to the Legislature, and the people can elect their representatives to carry out their will.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I shall vote against submitting this to the people, and say that I am just as pronounced against prohibition as I was in favor of woman's suffrage—to give to our fellow creatures their liberties. I maintain prohibition interferes with them, and this is one reason that I shall vote against it. I might name a great many incidents in my experience regarding the use of liquor, and the evils that have grown out of it right in my own dear family associations, but I maintain that it interferes with the agency of man to undertake to prohibit it in this way. I will have to sustain any action of the

Legislature that will make it local option and high license. I believe by this that any city, town, or settlement through this Territory can govern their own affairs. I do not find any great evil from the liquor traffic here in Salt Lake, not nearly as much as I find in the smaller settlements. There I notice that the young men, having no particular attraction in the way of lecture halls, of theaters, or anything of this kind to draw them in the evening to entertain them, they naturally associate in the saloons, and young men who are naturally addicted to the use of liquor learn to drink in this way. But if the city councils or the presidents of towns go to work and enact such laws as shall restrain the saloons and keep the minors out, allowing them to sell the beverage in a respectable house, I do not believe there will be very much harm come out of it. And as to the manufacture, gentlemen, I do hope that we will not take any action to interfere with the manufacture of anything in this Territory. It is an evident fact that there are hundreds and hundreds of people out of employment, and I believe there are thousands and thousands of dollars that are paid out annually here to our employes and for the materials that are grown on the soil, for making this product, and even if we prohibit the drinking of it or the selling of it, let us not prohibit the manufacture of it.

Mr. HAMMOND. Mr. Chairman, I just want to say a word or two in reply to my honored friend and fellow-laborer from Weber County, Honorable Lorin Farr. I think if I understood him right he quoted scripture, that the mandates of the Almighty were for prohibition. Now, I submit that if the Lord could not prohibit so that His good old servant Noah in his ark would not plant a vineyard and get drunk, what is the use of us trying to legislate against it? Now, local option is my doctrine and local self-

government. If San Juan wants to get drunk, like a fool, let them do, it. If Salt Lake City, the great over-grown brother of mine, wants to sell whisky, and drink it, and get drunk, with their high schools and colleges—excuse me, university, and all these things, I am in favor of their having it.

Mr. ROBERTS. Mr. Chairman, I want to call attention to the report made by the minority of the committee in the article they propose to submit for separate vote of the people. They say not only that the manufacture for sale or gift as a beverage of intoxicating liquors shall be prohibited, but no person, association, or corporation shall import any of the same for sale or gift, or sell or offer to keep the same for sale or gift, barter or trade, as a beverage. In that particular, sir, I think at least the minority have undertaken to do something that is impossible for them to do; in other words that we cannot, under the decision of the supreme court of the United States, prohibit the importation into this State of intoxicating liquors as a beverage, and I would ask gentlemen who intend to vote for the submission of this clause to take that matter under consideration. I think it is something you cannot do. In considering a question of this character I cannot for the life of me understand how you can consider it separate and apart from the merits of the question. The merits of the question are inevitably involved in it, and necessarily ought to be, because upon the merits of the question depend the propriety of either putting it directly into the Constitution or permitting the people by their vote to put it into the Constitution; and I hold, sir, that the majority report of the committee is correct, wherein it states that prohibition is but an experiment, not only in the way of legislative enactment, but also by constitutional provision. I think it was only last year that the good people of the state of Iowa rooted out of their

constitution the prohibitory clause on this subject. I lived for some length of time myself in the state of Iowa, when that was a prohibition state by legislative enactment, and I know not what the experience of other gentlemen may be in prohibition states, but I wish to declare that I know that in that state prohibition was nothing but a hollow mockery, and the very fact that the people have but recently even repudiated the constitutional prohibition, is very strong evidence to me that this matter is but in its experimental condition and that we cannot afford to undertake that experiment by constitutional provision; and as stated in the majority report, if tried at all, it should be undertaken by legislative enactment.

Now, sir, I am of the opinion that there are things worse than even intemperance in the use of intoxicating liquors, and one of those things worse than the intemperate use of intoxicants is the demoralization which comes to a community which threatens civil government itself, and that is disrespect and disregard of law. Such is the nature of this question that it is not a difficult matter to evade the law, and wherever it has been tried, men have evaded the law and that successfully—more successfully in respect to sumptuary laws than in respect to other kinds of law. I say that it is easy to evade this class of law, and when you teach a community or when you create conditions which lead a community to disregard law, you create a greater evil even than the evil you attempt to crush by law. And for this reason I do not want to engraft into the Constitution this prohibition clause. I believe it is the right of this Convention to determine what to put into a Constitution and what would be more proper to leave to the Legislature, and for that reason I think it is quite competent for this Constitutional Convention to say to the people, notwithstanding the peti-

tions that are before us, that it is not a proper matter to insert into the Constitution. I believe, sir, that that right and power is herein this Convention and that it is a proper exercise of that kind of judgment. Now, sir, prohibition being an experiment, and for the most part an experiment that has failed, in my judgment—other gentlemen of course may differ from that, but it is a difference in judgment, but being an experiment that has failed, I hold that there is nothing binding upon us to attempt it by constitutional provision.

There is no gentleman upon this floor but what is aware of the evil of intemperance. It is not because I am in favor of patronizing saloons and that I have no regard for the evils of intemperance, that I am connected with those gentlemen who made the majority report on this question, but my observation teaches me that the proposed remedy for that evil is not equal to the task proposed for it. I am against it. It is for that reason that I shall vote against submitting this clause for a separate article on prohibition. There is another question connected with this subject, and that is recognizing the impracticability of prohibition either by constitutional provision or legislative enactment. In consequence of our being surrounded by states and territories where they may manufacture and sell these intoxicants as beverages in spite of all that we could do, they would import these beverages into our Territory and they would be sold, and the result would be that we would not materially lessen the evil, but we would pay out a revenue to surrounding states and territories that we absolutely need here in our own new State. And I cannot close my eyes to the fact that it would be increasing the burdens of taxation upon the people of this Territory and at the same time not curing the evil at which this prohibition clause is leveled. Now, these are considerations from which we cannot remove ourselves, and

I think it is competent and proper for this Convention to favor the adoption of the majority report of this committee on this issue. I believe that we can better control this question—this evil of intemperance by locating it where we know the evil is and where it can be under the guardianship of the law and strictly regulated, instead of having blind institutions about us producing evil and yet we know not the source of that evil. I am firmly convinced that you cannot legislate men into morality. I am persuaded that it is impossible to make men temperate by legislative enactment. I do not close my eyes to the fact that there are other forces in the world than legislative enactment and congressional provision. Why, sir, I want ministers of the gospel to have something to do, and there are better forces to be arrayed against this evil than legislative enactment. I believe in the liberty of the individual, and if you want to know how dear to me the liberty of the individual is, I want to tell you that, quite contrary from the position taken upon the floor here this morning by the gentleman from Sevier County, notwithstanding all the array of blood curdling incidents that may be related as growing out of the acts of men under the influence of intoxicating liquors, notwithstanding all that, so dear to me is the liberty of the individual that I would pay that price for it, and if I could, I would not destroy the liberty and agency of man.

Mr. MILLER. May I ask the gentleman a question? How about the weaker ones—the wives and children of the unfortunate men?

Mr. ROBERTS. You may add that to the list also, if you will. I recognize, sir, that Omnipotence has the power to blot this thing out of existence and yet He withholds His hand. He permits it to exist. You will see, therefore, gentlemen, that I am prepared to vote against the amendment which adopts the

minority report, and in favor of the motion to adopt the majority report.

Mr. BOWDLE. I would like to ask the gentleman a question. I either misunderstood him or else that was simply a slip of his tongue, did you state that there was ever a prohibitory clause in the constitution of Iowa?

Mr. ROBERTS. That is my understanding, sir, that there was.

Mr. BOWDLE. Don't you recollect that the prohibitory clause was submitted—was supposed to be carried to the supreme court, afterward decided that it was not, through a clerical error or something of the kind, and it has only been statutory all the time.

Mr. ROBERTS. No, sir; my understanding is that prohibition by constitutional provision was rejected by the people after it had operated for some time.

Mr. BOWDLE. You will find that is wrong.

Mr. L. LARSEN. Mr. Chairman, I have not occupied a great deal of time on this floor, but I have thought a great deal. I sense that it is not popular to take the side on the floor here that I expect or undertake or intend to take. I do not know how popular it will be with my people or constituents from where I come, but I realize that we have petitions before us of over ten thousand people of this Territory. They have asked us to submit this question to the people on a separate article to come before them with the Constitution. Now, the question is with this Convention whether they will ignore these ten thousand people's request. There is no one that has asked us to do to the contrary. There are a great many—but a minority, so far as I understand, that have asked us to insert it in the Constitution. We have carried one subject—a difficult one, as it were, over a great gulf successfully. Now, we are on the verge of another gulf again with another subject or another question. Now, it is the question, shall we successfully

carry that over a gulch or shall we land it in the mire? This is now the question before us, as I understand it. We have a right to ignore the petitions of the people if we so say and the majority of this Convention say so. Now, I will say here I am not a very strong prohibitionist. If time permitted me to make a few personal remarks—but I suppose it will not unless some gentlemen had time to spare. It may be they will all want to speak. Perhaps they all have spoken or very nearly so, or at least signed their time away.

Mr. MACKINTOSH. I give you my time, sir.

Mr. LARSEN. Thanks. The question of prohibition came up in my own town a few years ago. We had prohibitory ordinances. Our neighbors on the north about six miles away—Mount Pleasant, they had a license system. On the west of us, some five or six miles they had a license system; our boys had such a very nice chance, they could take their girls and ride over in the wagons or buggies and go up to our neighboring town and get drunk. The girls wouldn't, but they did it anyway when they were alone. That I do know. And they would come back as it were and raise hell. [Laughter.] Our police force was weak. The city hadn't the means to pay them to keep order and good peace, and it came up before the city council. I happened to be mayor of the city at the time. I was opposed to the license system. I am a prohibitionist personally, soul and body, for I do not believe in drinking liquor. I never had from a young man. I made a determination before I became in my teens that I would never drink liquor or chew tobacco, and have stuck to it, and all the liquor that I ever drank in my life could be placed in a quart cup, I believe, but when the question came up as to whether we should license in our town or not, the council took this matter under advice, and when the people found that the council had it under

advice they sent in a whole flock of petitions asking us to let that matter alone, not to license liquor saloons in Spring City. Well, we considered it very carefully for several sessions, and we came to the conclusion finally—why, to say if we ignored the petitions of the people—I must say we did, for it was a fact we did it. But we were forced almost to do it under conditions under which we were placed. We had the evil of it and derived no benefit from it, but I do hope that this Convention will take this matter or look upon this matter in another view.

I believe that the prohibition system can be governed under statehood far better than it can as it were in localities. It is useless that one town a few miles from another town can prohibit, and the other selling liquor. This is a useless thing, but under statehood, I believe it should be tried. I am willing for one to try it and I am willing to risk it, and when the people to-day—they have sent their tens of thousands of petitions to this Convention, I believe they should not be ignored, and for my part, I am willing risk it and take the consequences. That is the way I stand at the present time. Then, I cannot see that we can do any better than this, but as I said before, I do not believe—but I hope I am happily disappointed—I do not believe that we will be able to carry this question over a gulch, but it will sink. That is about the way that I feel, but it will not be because I will sink it, for I will adopt this or I will submit my will to the petitions and will of the people, and I will vote to submit it to them at the next election as a separate article with the Constitution.

MR. MORRIS. Mr. Chairman, I have been interested in the speeches that have been made pro and con on this great question. I think it is the question of the day, gentlemen, and Mr. Chairman, I am fully convinced from a life time experience that prohibition can

be carried out but not complete; but I do not believe it can be carried out that far that it will improve upon the conditions of the human family to-day in every nation. I believe in prohibition, from the degradation and misery that I have seen in the world as well as I have seen in this city, and I believe that we, as a people, above all other people, claiming and professing as we do, should be a unit in establishing this in our new State. Some argue that it cannot be done. That is very true; laws are enacted in every land against thieving and against shedding of blood, that does not stop it. But I am inclined to believe that it reduces it a great deal more. I believe that the law that exists against stealing prevents hundreds and thousands of men under a load from committing crimes, hence, I believe that it will pay us well to try the experiment as long as the people are asking for it. They have not asked us to place it in the Constitution. But they have asked us to submit it for the majority to rule in this, and I believe that is right.

We, on this floor, claim that the majority has a right, and the people only ask for a right, to submit and place it before the public to choose for or against. Then they are responsible for it. It has been argued on this floor that a great deal of property is invested. That is very true, but I have come to the conclusion, gentlemen, and Mr. Chairman, that if we were in a condition financially, it would pay us as a people to purchase these breweries and saloons and it would be a mighty good speculation. That is what I believe. It is not so much for those who are advanced in age, who have become chronic to this custom of drinking, but it is the youth—our children, our sons, that is where the evil comes. Imitation and invitation in every possible way, to invite them to the saloon and to the billiard table and to the gambling, before their judgments are matured, that

is where the evil comes. I have no objection to the old heads who have been accustomed to it, and let them drink to their fill, until they are satisfied, but I claim that something should be done to prevent this evil that is sapping the foundation of Utah as well. I remember living in this city when there was not a saloon in this town, when a drunkard would not be seen from one year's end to the other, but since civilization has reached us now we find them on every corner of the street, and there are open doors to invite our youth there, and there is where they are ruined before they mature in better judgment. And for that reason I am in favor to—if you will allow me, Mr. Chairman, if we cannot get this I would like to get something next to it. If it comes to enactment of the Legislature, I would like to see it placed in the hands of each incorporation to handle that themselves and be subject and liable for their conduct and their actions. I understand that there are such customs in other nations where the city takes this matter in their own hands where they open a saloon, but not a seat, nor a chair nor a lounge inside of that room. If they are thirsty, come in and take a drink and go about their business, and the corporations are liable and subject for all disorder or mismanagement in that regard.

Mr. ELDREDGE. Mr. Chairman, I did not anticipate saying anything on this question, because I did not anticipate it was going to assume such proportions as it has seemed to have done. When we enter on the field of prohibition, it seems to me that it opens into a very wide space, and if the measure which is introduced by the minority report should prevail, it seems like it would bring a question before the people to prohibit the use of a certain article. Now, in my experience, I have noticed that the use is not what we should wish to prohibit, but it is the misuse which we wish to prohibit.

If the misuse of the article brings disastrous results, if it brings injury to the individual and to those that he is associated with, and by reason of this fact we are to prohibit its use in every form and in every shape, to what extent can we apply this principle?

I remember not long since of seeing a railway train going down a certain incline with irresistible force and run into another. I saw a human being under that wreck, bones broken and life destroyed, to that extent that it made the blood curdle, and by reason of the misuse of this element which had been brought into use. If we can apply it to one principle or one element, we can apply it to another principle and another element, and to what extent might we then apply the rule that we expect to apply unto this one article? Should we take time to go into the discussion of this question, we can point out element after element and property after property that has brought misery and destruction—misery to life and destruction to life and property all over the universe. And by reason of this should we then prohibit its use? Mr. Chairman, it is just as consistent in my mind to pass a law here to prohibit the production or the raising of the article from which that liquor is made as it is to undertake to prohibit the manufacture of it, just exactly. I believe that man is endowed with certain agencies, and I look upon him as a higher being than the mere worm that creeps upon the face of the earth. That he is here for a special purpose and the only way that he can develop that particular purpose is in the exercise of his agency, and then you begin to prohibit the exercise of that and you deprive him of rendering an accountability unto that life which gave him life. So that the question which we have under consideration is broader in its sphere than the mere taking of a glass of whisky or beer. It enters into man's very existence and it takes him from the time that he came

here through all eternity, and if you destroy his agency in one sphere how is he going to develop unto his associates and unto the life that gave him existence an opportunity to be like the metal that has been extracted from the hill—tried and refined, so that when he is brought before his Maker, he reflects His own image? It is a principle that I shall oppose—the minority report. If I should allow my sympathies to be drawn out and given expression to what I have seen as the results of the misuse of this in this land and in other lands, I could also say that I have seen in regard to the misuse of other properties and other elements. I remember once upon the borders of Wales of seeing a train coming out with seven passenger cars, all loaded with tourists, many of them from America, many of them from other parts of the world, and it was going up an incline and in the midst of a hill it ran into an oil train—

The CHAIRMAN. Gentlemen, you are annoying the speaker.

Mr. CREER. Mr. Chairman, I wish to speak to one point that has been touched upon. I claim to have a great deal of experience in the matter of prohibition for something near fifteen or twenty years. They attempted to establish prohibition in our city, and I was police magistrate for a number of years and then afterwards city attorney, but I have seen more perjury committed in cases that were brought up under prohibition, altogether, than I ever saw combined in anything else. I have seen young men who would tell me that "If you put me upon the witness stand you cannot get the truth out of me." I have seen attorneys come into our town and go to work and take our own witnesses and take them into a place or dive where liquor was sold and tell them what to say, and they would come right into court and swear exactly as he told them, every word of it was a lie, until I

became almost disgusted with humanity. Therefore, if we want a new State predicated upon principles of honor, let us avoid this one thing. If you undertake to remove this question from the legitimate channels with the individual agency that exists, and there you simply relegate it back then to this that I refer to, for they will swear falsely every time.

I remember a case where the chairman of this committee prosecuted here, and the officers of our county through their vigilance had the testimony as perfect and solid as it could be; they were the aborigines of our country here who came in, and they told the truth, but the white man made himself a slave to the vendor of liquor and they perjured their souls, whereas the Indians who had not been tutored in this did not do so. Not only that, but talk about petitions, why we had petitions from respectable men, too; there is one certain case I am reminded of where two men held prominent positions in the dominant church here in this Territory, and the one swore he got the liquor and the other swore he did not, and the result was the man who swore he did not, although he did get the liquor, why the jury believed him and the case went against the city, after it had gone to the district court. Many instances I could tell of where witnesses were taken out of the Territory in prohibition cases into other states, and when cases were about to be decided upon the witnesses were frittered away. So I say upon this point let us rely more upon the conversion and upon the honor and upon the natural instincts that men have rather than perverted ones. And, gentlemen, if you attempt prohibition, there is more danger of changing or perverting these natural instincts and attributes than there is otherwise. Now, I expect I shall be relegated because quite a number of prominent citizens of our town sent in their petitions asking me to present

them and I did so, but I am firmly convinced by twenty years' experience, notwithstanding the gentleman who spoke in favor of the minority, who lives in the town next to it. How is it, only the other day the young men came to the town there and beat our marshal with some kind of a weapon and also some citizens came from Springville, too? We had to take the brunt of this. Now, these are the practical facts of the subject. I have had as much experience on this matter as any other man on this floor. And, gentlemen, it cannot be carried out. You cannot do it. I believe in being aggressive, however, and if you saloon men have all the advantages when you frame your laws and be aggressive also, but you cannot enforce a prohibitory law. It is contrary to nature itself.

Mr. CORAY. Mr. Chairman, when Horace Greeley was asked in regard to the slavery question and the Clay-Missouri compromises, he made the assertion that there was no such a thing as a compromise between good and evil, between right and wrong, and I submit, Mr. Chairman and gentlemen of this Convention, that there are very few members here but what will concede that the whisky business in its different ramifications is ninety-five per cent condemned through wrong—materially wrong, and therefore, I think it is the duty of any honorable man to stand up here and combat those institutions. Connected with the whisky business there is the demi-monde and the gambler. They are one and inseparable. They are triplets, from the same mother, and I think when a man fights one he is fighting the interests of the other, and any man or any set of men who will stand up here and defend the whisky business, I consider their just reward will be to live to see their children and their grandchildren gamblers, drunkards, illegitimate, and prostitutes.

Mr. BOYER. I want to ask Mr.

Creer a question, whether or not the liquor that was used in this drunken row by the party from Springville was not obtained at the saloon at Spanish Fork?

Mr. CREER. Certainly it was; yes, sir.

Mr. CANNON. Mr. Chairman, I am not in favor of the minority report. I believe that in refusing to accede to the petitions that have been presented, I am not denying the right of petition, because I believe the sentiment of my constituents is that it should not at this time be presented to the people. I think after the Constitution has been adopted, if at any time they desire to make this an issue, they can present it to the people and the people will have more time to carefully consider it upon its merits. I shall, therefore, vote for the majority report.

The motion to adopt the minority report was rejected.

The motion to adopt the majority report was agreed to.

The committee then proceeded to the consideration of the article entitled corporations other than municipal.

Mr. JAMES. Mr. Chairman, have I permission to make a few remarks before the clerk proceeds to read? My purpose is to explain certain matters as we go on with this article to the committee.

Mr. BOWDLE. I suggest this will come up properly when we reach the article.

The CHAIRMAN. At the end of each section.

Mr. JAMES. It was in reference to some amendments that may not take place during the reading of the article, and I wish to call the attention of the committee to them so that they would not amend one article that would come in conflict with others after it would be amended as proposed by the committee, since the report was made from opinion that has been gathered by the committee.

The CHAIRMAN. There seems to be objection to it, and if there is you will have to wait until the amendments are proposed.

Section 1 was read.

Mr. PIERCE. Mr. Chairman, I move that section 1 be stricken out.

Mr. GIBBS. Mr. Chairman, I move that we strike out all after the word acts, in line 3.

Mr. PIERCE. Mr. Chairman, the reason I would move to strike out the section is that the legislative article, section 31, provides for just such a case as this. Here it is that corporations may be formed under general laws, but shall not be created by special act. That is a general law in the legislative act, and it seems that there is nothing in this section that is not covered by that general law. Then the principle that all laws relating to corporations may be altered, amended, or repealed by the Legislature, etc., is a principle of general law, which we do not need in a constitution.

Mr. GIBBS. Mr. Chairman, I will withdraw my amendment.

Mr. THURMAN. Mr. Chairman, I trust the section will not be struck out. It may possibly be covered, but if it is, the committee on revision, who will have this whole matter in their hands, can decide where they will retain it, whether here or in the legislative article. I think we ought to make this complete as we go along and leave that kind of business to the committee on revision.

Mr. EVANS (Weber). I would ask Mr. Pierce why he wants the balance of the section struck out. He did not make any explanation at all about that.

Mr. PIERCE. Mr. Chairman, I do not think it serves any purpose. It is pure legislation. The laws relating to corporations can be amended, altered, or repealed at any time by the Legislature. Then, there is another provision in our Constitution that we have passed

which prohibits the granting of unlimited charters, and it seems to me that the second clause of the section is purely a subject of legislation, and the first clause of the section is covered by our Constitution.

Mr. JAMES. Mr. Chairman, I believe it will be proper for me to make a few remarks right here, and I hope the Convention will indulge me for a few moments, for the reason that I am anxious that the best thing shall be done by this Convention that it is possible for it to do in the interests of the people as well as the interests of corporations. Mr. President, this matter has been under consultation by a committee for over forty days—a committee of gentlemen, Mr. President, that you appointed that have come together whenever it was possible for them to meet and when the chairman has asked them to meet with him and consult upon this article. The committee for some reason or another—an impression has gone out in the public that this committee was hostile to corporations and other institutions in this community. I want to say that there never was a greater mistake made. I have not seen one instance or one idea from any gentleman upon that committee, only conscientious action in behalf of the people that he represented in this Convention.

The matter which guided the action of the committee regarding these matters was that of the conventions that have been held in the United States since we became a nation. If you will go back to the early conventions—1778 was about the time they began. You will find that there was but little attention paid to corporations or matters of this kind. As times progressed and our country grew and these matters became important in the nation, you find they commenced to be noticed in the constitutions of the United States. And as time passed along and we come along down to the late period, which we now represent, you find all our later

constitutions have taken hold of this matter and have dealt with it most thoroughly, and they have been our guides in our actions. This committee has, in all instances, so far as they possibly could, been governed by great examples that have been set them in these new states that have come into the Union recently. Now, I want to say so far as striking this section out is concerned, to me it is a most remarkable surprise, and when the gentleman gets up on this floor and says it is pure legislation, I have a wonder in my mind where he draws the line and where he makes a distinction between legislation and constitutional provision. It says what the Legislature may do. Does it legislate? Does not it leave it open to specify and set forth for the people in your State what the law shall be in this provision? And if we are going to take up an article that you find in Washington, California, Montana, Idaho, and every state that has come into the Union in the past fifteen or twenty or more years, and strike it out simply because it has been fashionable here on the streets and other places in the last few days to raise a question about the work and the acts of this committee, you might as well strike the whole article out and be done with it, gentlemen, because it only makes child's play of this committee for the last forty days.

Mr. EVANS (Weber). Mr. Chairman, I would not say anything upon this question were it not for the fact that I believe the sentiment has gone abroad that the article which we are considering in the committee ought to be practically emasculated and stricken out. The sentiment is abroad that our Constitution is too long, a good many matters existing in it of a legislative character; and this article happens to be unfortunate enough to be among the last articles which are lengthy, and for that reason I fear that we may do the State an injustice if we do not give this

subject a proper consideration. This article, gentlemen, deals with the most vital question which this Convention will have before it. It is the question of the power of corporate institutions which receive their charters and their franchises from the State, and it becomes a question now as to whether the State shall deal with those corporate powers and whether it shall have the power to restrict them in the future. Upon this particular question I do not think it will be inappropriate to read a few words which were uttered in a private letter to a friend in Illinois by the martyred Lincoln. He says:

We—yes, we may all congratulate ourselves that this cruel war is nearing its close. It has cost a vast amount of treasure and blood. The best blood of the flower of American youth has been freely offered upon our country's altar that the nation might live. It has been indeed a trying hour for the republic, but I see in the near future a crisis approaching that unnerves me and causes me to tremble for the safety of my country. As a result of the war corporations have been enthroned and an era of corruption in high places will follow and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in the hands of the few and the republic is destroyed. I feel at this moment more anxiety for the safety of my country than ever before, even in the midst of wars. God grant that my suspicions may prove groundless.

I only read this, gentlemen, for the purpose of calling your considerate attention to this great and important question that we are now considering. The words of the immortal Lincoln, uttered in the letter to his friend in Illinois, and the prophecy which he then made, has, I say, been literally fulfilled. Corporate influence and power in this country are beginning to grow so great that it has accumulated the wealth of the country. It has taken from the people many important rights which belong to the people, and it has secured it through legislative franchises unrestricted by constitutions, so that when

the grants of power have been made the people have been powerless to regulate by legislation this power which has been granted to corporations. It is an elementary principle and one of law that in the absence of any restriction upon corporate power or upon corporate franchises, the corporation, when the grant is once made, secures it as a contract between itself and the state, and the future legislature has no power whatever over it or to control it. So that we should step cautiously. We should act wisely upon this question of corporations. I believe that I know that in this city influences have been working for the purpose of treating this article lightly, that it might be stricken out in the main, so that the Legislature would be free to deal with the question unrestricted. This influence has been exerted. The chairman of the committee knows it; other men upon the floor of this Convention know it, and since this motion has been made right upon the very threshold to strike out the first section which retains all power of the Legislature over these corporate franchises and, I fear that unless we consider it more carefully a great injustice will be done.

Mr. HART. Mr. Chairman, I believe that the first sentence in this section has been incorporated in the legislative article, but certainly the latter part of it has not been. And this is the proper place for this sentence anyway. The latter part of this section will permit legislatures to control and restrict corporate power. There has been a contest in the courts of this country ever since the decision of the celebrated Dartmouth College case, in about the year 1812, in which Mr. Webster, the great orator, pleaded so eloquently for his alma mater—ever since that case which decided that a charter was a contract between the power granting the charter and the corporation to which the franchise or privilege was granted, there has been an effort on the part of

the courts to get away from that decision. There has been an actual attempt upon the part of the courts of the United States to relieve themselves from the position that the Dartmouth College case decision placed upon them. Under the Constitution of the United States the respective states were prohibited from passing any laws impairing the obligations of contracts, and as a charter privilege was construed to be a contract, when the legislature once granted a corporate privilege, under the decision of that case the state itself no longer had any power over the corporation. I think, Mr. Chairman and gentlemen of the committee, that we should solve this question here, and that we should put the corporation under the control of the State, and simply because you give them a corporate privilege—a franchise at one time, if they abuse that, and if there is any necessity of recalling, restricting, and controlling that, I think the State should have the full power to do so, and this is all this section gives to the State.

The motion to strike out was rejected.

Mr. BARNES. Mr. Chairman, I move that the words "at any time," commencing at the latter end of line 4, be stricken out. I think they are not necessary there.

(No second).

Section 2 was read.

Mr. CREER. Mr. Chairman, I would like to ask the chairman the object of the latter part of this section, "at the time of the adoption of this Constitution" about being compelled to file in the office of the secretary an acceptance?

Mr. JAMES. That is to put all corporations, as far as we possibly can, upon an equal footing, that they shall accept the laws as provided under this Constitution.

Mr. BOWDLE. I want to ask the chairman of that committee a question. Would that, as the committee under-

stood it, modify the charter of existing corporations?

Mr. JAMES. No, sir; but all corporations' charters expire in a certain length of time, and then they will have to come under it.

Mr. BOWDLE. They would anyhow, would they not?

Section 3 was read.

Mr. SHARP. I move to amend this section by inserting after the word "not," in the first line, the words "by special act."

Mr. MALONEY. Mr. Chairman, that is provided for in other parts of the Constitution.

The motion was rejected.

Sections 4, 5, 6, 7 and 8 were read.

Mr. HART. Mr. Chairman, I move that section 8 be stricken out.

The motion was agreed to.

Section 9 was read.

Mr. RICKS. Mr. Chairman, I move to strike out section 9.

Mr. MALONEY. I would like to know what ground the gentleman asks that that be stricken out on?

Mr. SMITH. Mr. Chairman, it is legislation pure and simple.

Mr. RICKS. I cannot see anything to be gained by that. And it seems to me it is pure legislation.

Mr. MALONEY. Then, Mr. Chairman, the Legislature may incorporate companies to run street cars, lay their tracks down through the streets and highways of Salt Lake City, electrical plants operating, to put their poles where they please without the authority of the city at all. I say that the city authorities should first be consulted, they should have the say as to whether or not any corporations shall be entitled to the franchise of the street.

Mr. EVANS (Weber). Mr. Ricks, do you understand that that simply is a limitation upon the Legislature so that it cannot permit these things without the consent of the city authorities?

Mr. RICKS. Yes, sir; I understand that.

Mr. EVANS (Weber). Do you believe that the Legislature ought to grant these rights without the consent of the city authorities?

Mr. RICKS. No, sir; I do not think they ought to. I do not think they will even if that be stricken out.

Mr. SMITH. Mr. Chairman, there is a section in the Montana constitution just like this. That was submitted to Mr. Thayer, a constitutional lawyer, and I see he has stricken it out of the Montana constitution. It is pure legislation. Mr. Thayer is the constitutional lawyer of Harvard college.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to it going out if it was struck out of Montana.

Mr. HALLIDAY. Yes, sir; so am I.

Mr. EVANS (Utah). I think it ought to remain in here. I do not think that the Legislature ought to have the right to say that there shall be railroads, telephone lines, or anything else of that description located and passed through these cities without the authorities being consulted and their consent obtained, and I hope this will remain in here.

Mr. BOWDLE. I will ask the chairman of the committee—as I understand this article—section 1, the word "may," that will be construed to be "must;" that is, corporations must be permitted, if permitted at all, under general laws, and shall not be created by special acts. Would not that limit the Legislature from passing any special legislation of this kind?

Mr. CREER. It may not be special legislation.

Mr. EVANS (Weber). Suppose the Legislature says that these companies should run through all the cities alike in this way, without the consent of the city authorities. That would be a general law, wouldn't it?

Mr. BOWDLE. It would be a general law, it is true.

Mr. ELDREDGE. Mr. Chairman, a portion of that section seems to me is

very consistent and the proper thing to retain here, and there is a portion of it that seems to me might work against the commonwealth. And, therefore, I would move to strike out the word "telegraph," in the third line, and the word "telephone." There might be a case in which the telegraph line was coming to a city with a view of extending it through and going on to some other section of the country, and it was not local in its character. It was simply a continuous line, and if the city authorities took a notion they could make objections to this provision and an inconvenience that the Legislature should not be hampered with in that particular.

Mr. CANNON. Mr. Chairman, I am opposed to the proposition offered by the last speaker, because if it were a telegraph line, there is not one case out of a hundred where they could not, if they saw fit, go around a town if they needed to, and I think if they get into the town, it should be under the regulation of the corporate authorities wherever they are. I am in favor of the section as it stands.

The motion of Mr. Eldredge was rejected.

The motion to strike out the section was rejected.

Mr. HOWARD. Mr. Chairman, I would like to offer an amendment to section 9; strike out in lines 1, 2, and 3, the words "by the legislative assembly."

The question being taken on the motion of Mr. Howard, the committee divided and by a vote of 35 yeas to 27 noes, the motion was agreed to.

Section 10 was read.

Mr. CORAY. I would like to ask for information if the law at present does not provide for that same thing? I do not see any necessity of putting it in the Constitution.

Section 11 was read.

Mr. ROBERTS. Mr. Chairman, I

have a substitute I wish to offer for section 11:

No corporation shall have power to engage in more than one general line or department of business, which line of business shall be distinctly specified in its charter of incorporation.

The present section 11 provides that no corporation shall engage in any business other than that expressly authorized in its charter. I believe, sir, that that is a good provision. I do not think it goes far enough in this matter. I am of the opinion that corporations should be restricted to one general line of business. I do not believe that corporations should be organized in our new State that would have power to engage in any number of occupations that they might deem proper to engage in, because it could be possible under silence of the Constitution for a great corporation to be formed that would lay its hands upon all the resources or nearly all the resources of the new State, stifle all competition, and reduce the people to the condition of being drawers of water and hewers of wood. I believe, sir, that this provision, which is found to be in several of the states, and notably the constitution of the state of Wyoming, from which this section is a copy, could be very well inserted in our own Constitution. I take it, sir, that one great evil that threatens our land and which promises to overthrow the institutions of our country more than any other danger, is that of corporate power, and unless a limit be placed upon the lines of business in which these corporations may engage, there is no end to the evil that may result from the building up of these mighty corporations. I call attention to the fact that this danger comes not from within our own borders, but foreign corporations; by which I mean combinations outside of our State, and represented here only; by agency, may organize and place a destructive hand upon the industries of

this new State and monopolize our magnificent resources to themselves and strip the people of the opportunity which our natural resources bring to them. And, therefore, sir, I for one am willing to serve notice upon such foreign corporations that there is no field for such gigantic oppressions in the Territory of Utah. I wish to explain further, sir, that if this section or this substitute which I offer shall carry, I expect to follow it up by offering another section which shall say there shall be no consolidation or combination of corporations of any kind whatever to prevent competition, to control or influence productions or prices thereof, or in any manner interfere with the public good and general welfare, believing, sir, that these sections will be absolutely necessary to protect our people and their industries from the invasion of foreign corporate powers. But at this present time, I offer this substitute, and whatever shall befall this section that I now submit for the consideration of the committee, I shall also take the liberty of inviting their attention to the wisdom of adopting this last clause also that I have named.

Mr. CANNON. May I ask the gentleman a question? Will you kindly name one of the foreign corporations that you have in mind that would be affected by this provision that you now introduce?

Mr. ROBERTS. No, sir; I do not know of any that this section would now affect. I simply, sir, offer it as a provision to protect the State from corporations. I have no corporation at the present time in my mind that would be or could be affected by this section whatever.

Mr. SQUIRES. May I ask the gentleman a question? Do you believe that the operation of this section will be against the organization recently formed in this Territory known as the Utah company?

Mr. ROBERTS. No, sir; I understand

that corporation to be already in existence and I do not believe that any provision in the Constitution could have an ex-post facto operation. I do not think that it touches that company at all.

(Mr. Hart was here called to the chair).

Mr. CANNON. Mr. Chairman, I am opposed to the substitute offered, for the reason that I believe that it would prohibit some of the institutions that now exist from being conducted, that I believe have been of great benefit to the people of Utah. As I understand it, for instance, it would prevent a manufacturing and merchandising establishment operating. If we were to take the case of the Z. C. M. I., one of the largest corporations within our borders, and one which I believe has been a benefit, not only to the stockholders, but to the people of Utah generally. It comprises departments that embrace several branches of business, not only all branches of merchandising, but also manufacturing in many lines. As I understand, the substitute would prohibit that incorporation or a similar corporation from operating as it has done in the past. I understand, of course, it would not apply to those corporations now doing business until their charters shall expire, but the principle is the same. Again, the foreign corporations to which the gentleman refers—while he was speaking I tried to think of one that could be affected by this substitute. I am in favor of doing what we can to protect the people from trusts of various kinds, but I could not recall one, and hence I questioned the gentleman, asking him if he had any in mind, thinking of those different trusts, the sugar trust, the Standard Oil trust, the lead trust, and others; each one operates in a special line and could not be affected at all by the substitute offered by the gentleman, and I believe that the original section as reported by the committee should be adopted.

Mr. HAMMOND. I would like to ask a question. The case comes to my mind of the Pullman Car Company, where, if I remember right, the attorney general went after them and tried to annul their charter because they had gone into land purchasing and building churches and houses, and a great many business operations other than that to which their charter empowered them as car builders. I remember something of that. I don't know whether it touches this case, but I think that is in point.

Mr. JAMES. You will observe that section 11 stipulates that no corporation shall engage in any business other than that expressly authorized in its charter. Now, a charter cannot be obtained without going to the Legislature. Now, if an incorporation cannot engage in any other business only what is set forth in its charter, the Legislature knows what they are granting them a charter for whenever they apply for it and when they grant it. Consequently you see the protection to the people in the shape it is in. I want to say in answer to Mr. Roberts's amendment, I considered the section that he has offered for amendment here and considered this one, and so did all other members of the committee. Now, we were afraid that we might go a little too far, and while we thought that this section in the shape that it was in would protect the people sufficiently, we did not want to go far enough to interfere with some condition of things that might arise where a charter was applied for something like this. Supposing the gentleman up in his county desired to build a railroad to some coal field somewhere, and he might incidentally find some little business for the road outside of hauling his coal, but he would be desirous of going to the Legislature and asking for a charter to build a road to those coal fields, and express in his charter to mine and ship coal from those coal mines, which belonged

to him. Now, we don't want to go far enough to shut out the opportunity of his including that in his charter, and if the Legislature see fit to grant him a charter to carry on that business in that shape, he might get a charter of that kind without danger to anybody.

Mr. CREER. Do you understand that they would have to apply to the Legislature to get a charter?

Mr. JAMES. Why, certainly, he would not get a charter without he went to the Legislature. Well, it might be a municipal charter.

Mr. CREER. And a private charter for a private corporation, would he have to apply to the Legislature to get that? I understand section 1 says general laws shall be passed.

Mr. JAMES. Exactly so, but it would come from the Legislature.

Mr. CREER. Mr. Chairman, I am opposed to this substitute. I think it will work a great injury, should we be allowed to supplant the present section. It will work a great hardship, as the gentleman from Salt Lake has said. There are companies in this Territory that have done a great amount of good by introducing one, perhaps two, or maybe three—anyway I am connected with an institution that I can say has worked no possible harm whatever. In its charter it is provided that it may enter into mercantile and manufacturing business. Now, unless it had been separated in that way—that is, unless it had received its impetus from this organization, we would not have the manufacture of boots and shoes which we now have in our city. We more than supply the inhabitants of that city with a little manufacturing we have there of boots and shoes. We are running in connection with that a grist mill, and rolling mill. Now, what possible harm could there be in that? Should this substitute obtain, that would shut off from that, not only in this line, but also it seems to me in mining business, both in coal and the precious

metals. They would not be allowed to run a railroad nor to operate their coal mines, and so in regard to other mines. But it seems to me, to confine this to a particular object, it would deprive the people of this Territory or State of the advantages of the investment of capital that could not be got otherwise than by corporations.

Mr. THURMAN. Would it not be better if of necessity you wanted to engage in two lines of business to form a new corporation and work it in harmony with the others?

Mr. CREER. Where is the harm in incorporating in both, so far as that is concerned? It seems to me there is nothing that is contrary to the provisions of the one in the other. That is in manufacturing and in commerce or in trade. Now, this would deprive a woollen factory from buying any little manufactory to manufacture their goods. Many industries that might be considered under the law as it now stands would be cut off by this and could not be properly introduced—many things. It seems to me that it simply turns the wheels of progress backwards. Nearly all the industries that we have established in our Territory up to the present time have been established on this principle, and I think it is dangerous to deviate from this route.

Mr. EVANS (Weber). Mr. Chairman, I think Mr. Roberts means in this, articles of incorporation, and I think Mr. Mr. James also, in section 11, meant to say articles of incorporation. I want to say I favor the section as reported by Mr. James, but it is not as complete, in my judgment, as the substitute offered by Mr. Roberts. The substitute is more restrictive and will give better results. Now, gentlemen, speaking about the Z. C. M. I., there is no difficulty about each one of those institutions incorporating separately. The shoe industry could incorporate for that purpose; the general mercantile business, for the sale of goods, for another pur-

pose, and the benefit of that is this, that each corporation then stands upon its own footing. People doing business with it will know exactly what its resources are, will know exactly what its profits are, and all about it, separate and apart one from the other. And it is the same with the grist mill spoken of by the gentleman from Utah, and the mercantile establishment, they are connected together there; they could be easily incorporated separately and the business could be kept separate. You would know exactly the condition of each, the profits, expenses, and everything connected with it.

But, gentlemen, these are very small things indeed, so far as this question is concerned. They are small things as compared with what is intended to be reached by the substitute offered by Mr. Roberts. If that substitute be not adopted, then the section will undoubtedly be adopted as we now have it. That will permit an incorporation to simply name in its articles of incorporation all the manifold classes of business that might be carried on. That is, a live, strong foreign corporation could come into our new State and file articles of incorporation under our general laws, saying, "we will incorporate for the purpose of carrying on the real estate business, for the purpose of carrying on a railroad business, for the purpose of manufacturing, mining, and everything else," and right there is what this substitute is intended to restrict and prevent—corporate power from taking possession of our new State and controlling its entire business and leaving the people to hold an empty sack.

Mr. SQUIRES. Would you prevent this same power from coming in and taking out articles of incorporation in all these lines of business separately?

Mr. EVANS (Weber). It may do that, it may do that; but there is another article here which prevents combinations for the purpose of controlling

prices, etc. But one of the other real benefits is for the purpose of permitting the public to ascertain the financial status of each corporation. That overshadows a good many other considerations, so that the creditor, when he is dealing with these corporations, knows exactly what their profits are, what their expenses are, and all these things incident to the running of the business. It certainly can do nobody any harm, not even those institutions mentioned, and might result in a vast amount of good.

Mr. CREER. Supposing now, for instance, that the shoe factory of the Z. C. M. I. should not for probably two or three years be able to maintain itself, whether anything is wrong in the other branches of its business supporting that? By this suggestion, each industry standing by itself, you could not use the capital of the one to support the other.

Mr. EVANS (Weber). Nothing wrong about it, but I think if the shoe institution did not sustain itself they would not run it at a loss. No business man does that.

Mr. CREER. During their inception or the infancy of these institutions they have to run at a loss.

Mr. EVANS (Weber). Then you say it runs at the expense of the general mercantile business?

Mr. CREER. Yes.

Mr. EVANS (Weber). Then, what prevents the general mercantile business from giving a portion of its dividends to the shoe factory? Nothing whatever; they should be run separately, but you permit a combination of them and there is trouble.

Mr. SNOW. I wanted to ask a question of Mr. Evans. If they were incorporated separately, would it not require a separate board of directors?

Mr. EVANS (Weber). I think not.

Mr. SNOW. Could they act as officers for each corporation?

Mr. EVANS (Weber). I think so.

Mr. MURDOCK (Beaver). Would it not also increase the machinery to carry on the two separate businesses—but would not it increase the expense of the institution, being that they were all under one head, only had to get up separate corporations for each individual business?

Mr. EVANS (Weber). You must realize that a corporation is in law a person. It has the right to contract with another corporation just the same as you and I have the right to contract together, and there is no reason why the expense should be increased at all. It is simply a safeguard so that we will each know just how our business stands.

Mr. CREER. Supposing that a certain portion of the stockholders should object to subscribing a portion of the dividends to the other?

Mr. EVANS (Weber). That is a mere sham pretense, and nothing else, when you say the business is going to be run continually at a loss.

Mr. CREER. I don't say continually.

Mr. EVANS (Weber). The corporation might loan its credit.

Mr. MURDOCK (Beaver). Mr. Chairman, I realize this fact, that perhaps this State has a great prejudice against corporations. I realize that fact, and it is like other innovations that are being made, it has a hard struggle in many parts to hold its footing; but I am in favor of corporations for the benefit of the general whole, and I do not believe in fencing out capitalists that might come into the country for the purpose of going into business. I do not believe in fencing them out so strong and so persistently as to stop our own moving ahead in this business. You cannot help the capacity of a man. If he has got capacity, you cannot keep him down, and it is men of capacity that can see further perhaps than I can and many others do, that they can go forward and institute corporations that will be a benefit to the people, and there

is no corporation in its incipency that knows just what it does want. Flour mills may go into a business, of manufacturing flour. They might also want to add to buy something that would be an adjunct to that business such as merchandising. Something will present itself before them as they move along that they might want to do, and the business, that they might be able to support themselves, and I think this substitute that has been offered would be detrimental to men going into business. I do not believe in curtailing men that want to push ahead. They are not only going to benefit themselves but the general public.

Mr. THATCHER. Will the gentleman permit me to ask him a question? If this substitute shall be voted down then your argument is just as much against the original section, because that expresses clearly that corporations shall not be formed except when express—

Mr. MURDOCK (Beaver). I have not taken the original. I am opposed to the substitute and I may be opposed to the other. I cannot tell until I get to it, but I am opposed to that. I notice that men that start into business start perhaps on a small scale, but as they move along there is something that will assist them in keeping vitality in their corporations, whereas if they are limited to prescribe every identical thing in their franchises or in their constitution, perhaps it would be calculated to discourage, and they would come to a break down and would not be in a condition to move ahead, but if they had already the privilege of doing something else—to illustrate, you go into a woollen factory and you might conclude that you could not only manufacture woollen, but you might also produce wool and ship it and sell it for the purpose of keeping up your expenses, whereas if you were confined to simply manufacturing in a woollen factory and prohibited from buying wool or going

into something that would assist in the maintenance of that institution, it would be very detrimental.

Mr. MORRIS. Mr. Chairman, I am opposed to the substitute for section 11 on the ground that we want to encourage all the industries of manufacturing that we possibly can, to create all the labor and modes of travel that we can. If I understand the substitute, it is to prevent incorporating into one more than one article or subject. We know well that in manufacturing there are many things that can be manufactured. We will take, for instance, the sugar factory. If that corporation was for manufacturing sugar alone, it would prevent that company manufacturing two or three other articles from the residue of that factory. They could be incorporated under one head—

Mr. THURMAN. What else can you manufacture from the sugar, anyway?

Mr. MORRIS. Vinegar, alcohol—

Mr. THURMAN. And Ogden liniment.

Mr. BARNES. Mr. Chairman and gentlemen, I cannot favor the substitute offered by my friend, Mr. Roberts, because I believe it is too far-reaching. Holding the position I do in connection with the Z. C. M. I., I know something of its workings, and were they compelled to separate their business, incorporate under two separate corporations, I feel confident that it would work a very serious hardship. Now, the question would arise with the shareholders, perhaps, and some would say, "I don't want to have anything to do with the manufacturing department." Now, we are all stockholders, that is, those that own stock in the institution. They own it to-day in the mercantile and manufacturing interests alike, and to say that they shall be divided, why, is something that I think would work a very great injury. I do believe that we should do all we can to foster home industries. That is what we want here at home—right here in our midst, is to foster home industries.

Give them all the aid and encouragement we can. Now, from what I know of the manufacturing interests of the Z. C. M. I., I doubt very much if it could have existed alone without the mercantile interest standing at its back. Now, if that be the case, shall we support that so that this manufacturing industry shall go down? They are employing probably two or three hundred individuals. Shall it go down? I fear that it would if the gentleman's substitute is adopted, because if I understand section 2 aright—perhaps I do not—it compels corporations to accept the provisions of this Constitution if they are to get the benefit of them. That is the understanding I have of it. Perhaps I am wrong in this, but I am willing to stand corrected.

But, sir, I speak in defense of home industries and I cannot favor the substitute for the reasons that I have stated. Were we to do away with our home manufacture, hundreds of persons now employed would be thrown out of employment, and what would be the result? I think we would discourage capital from coming in here and establishing home industries. I do not want to take up the time here, but simply to say in our efforts here and in our doings here, let us do what we can to establish home industry, and nothing that will pull one of them down.

Mr. SQUIRES. Mr. Chairman, after this good republican speech from my good democratic friend from Davis, and owing to the lateness of the hour, I shall not occupy but a very few minutes. I can see one particular consideration in which the operation of this section would be detrimental. Under the provision of this section no corporation could incorporate for mining and milling purposes together.

Mr. EVANS (Weber). Do not you think that would be the same general purpose?

Mr. SQUIRES. I should say not. Mining and milling are two separate

occupations. They are just as much distinct as any other two lines of business—and smelting. I think in the protection of the mining interests of this Territory, I should object seriously to the adoption of any such section requiring men to be at the trouble and expense of forming two corporations to do that particular business which ought to be together.

Mr. THURMAN. May I ask you a question? Is not the object of mining solely to extract the mineral wealth and get it into marketable shape?

Mr. SQUIRES. Mining is extracting ore. Milling is a separate occupation.

Mr. THURMAN. Is not that the purpose of it, and does not everything that will tend to do that form a part of that general line of business?

Mr. SQUIRES. I believe not. I should say that the construction to be placed upon the substitute would separate the mining and milling industries; I do not want to take any chances on it. I believe, gentlemen, that the section as it stands in this article gives sufficient protection to the people, and I believe it should be adopted.

Mr. ROBERTS. I would like to ask Mr. Squires a question: what protection the section, as reported from the committee, gives to the people?

Mr. SQUIRES. Well, the corporation would not be able to engage in any business except that specified in its articles of incorporation.

Mr. ROBERTS. I ask him if there is anything in the section as reported from the committee that would prevent any corporation from engaging in ten, fifteen, or twenty different lines of business, if they chose to specify that number of lines of business in their articles of incorporation?

Mr. SQUIRES. There is not, if they were fortunate enough in securing their charter and articles of incorporation that would give them that privilege; but under the operation of his own section as admitted by the gentleman from

Weber, they can engage in all those different lines of business, so that that corporate capacity could go in here and be worked just in that line as indicated. I do not see what would be gained.

Mr. ROBERTS. I would like to ask the gentleman another question, and that is, if the article that I gave notice would follow this one, looking to the prevention of the consolidation or combination of corporations, in connection with this article, would not prevent what he says here might be done under the substitute offered?

Mr. SQUIRES. It might not be a combination of all those different enterprises, but each one can be conducted separately under the same general board of directors.

Mr. CANNON. Mr. Chairman, the hour is late, and I think this a very important subject that should not be passed upon hastily. I move that the committee now arise and report progress.

Mr. MILLER. Mr. Chairman, I would like to make an explanation to this committee before we arise, if it is in order. I have just learned that in my remarks they were construed as insinuating that I had seen Mr. Driver under the influence of liquor; such was not my intention. I believe I prefaced those remarks by saying that I did not think Mr. Driver was a close observer. I thought I had seen him hot under the collar. By that I suppose he thought I intended to insinuate that I had seen him drunk; but if I had been allowed to finish my remarks, I should have finished this way, because of a man under the influence of liquor.

Mr. DRIVER. Mr. Chairman, Mr. Miller has explained this matter satisfactorily to me, and therefore, I wish to say that I do not believe that he lied.

The committee then arose and reported as follows:

Your committee of the whole have had under consideration the article on

mines and mining, and report the same back with the article stricken out. They have also had under consideration the article of the two committees, minority and majority, of the committee on schedule, future amendments, and miscellaneous, and recommend that no action be taken on that subject.

On motion, the Convention then, at 6 o'clock p. m., adjourned.

FIFTY-THIRD DAY.

THURSDAY, April 25, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Brandley of Sevier.

Journal of the fifty-second day's session was read and approved.

Mr. CHIDESTER. Mr. President, it appears to me that a good many members of the Convention have determined to leave here on Saturday for home, and it appears to me that by crowding this matter a little we might get through, and I therefore move that it be the sense of this Convention that when we adjourn this afternoon we take a recess until 7:30 and have an evening session. My reason for doing that is because I believe by holding evening sessions we can complete all the work before us by Saturday evening.

Mr. SQUIRES. Does the gentleman have any idea that the work can be so completed that the members can leave here for home on Saturday?

Mr. CHIDESTER. No; I do not believe they can, but I believe if it was all done up ready for revising and arranging, that they would be content to remain over until Monday.

Mr. SQUIRES. Well, has the gentleman an idea how long it is going to take after our Convention work is completed before the Constitution itself will be completed? The committee on com-

pilation and arrangement has to get its work in to be reported here. Then the entire Constitution has to be engrossed, and then it requires the signature of every gentleman of the Convention. It will take at least a week before you could possibly finish this business.

Mr. CHIDESTER. That is very true, but that is one reason why we should hold these evening sessions.

Mr. HOWARD. I think, Mr. President, we would have to suspend the rules if we did that, for the rules provide that that committee shall have not less than five days to complete their work.

Mr. HEYBOURNE. Mr. President, I have been credibly informed that the committee on compilation will not detain the members more than a half a day before they will be prepared to report. I understand from one of the gentlemen that they are about up with the business.

Mr. SQUIRES. The gentlemen do not seem to realize that after the committee on compilation has reported it will require considerable time, perhaps two or three days, to carefully examine the work and see that what work has been passed by this Convention has gone into the Constitution, without any mistake—the work of comparison and ascertaining whether we are absolutely correct or not. It is going to take a number of days of careful scrutiny on the part of the best men in this Convention before the work can be declared complete.

Mr. LAMBERT. Mr. President, the gentleman stated that the committee on compilation would be up. It takes considerable time to correct these articles, and all of those articles will have to go through the hands of the printer again before they appear before this Convention for final action, and it requires time and care, and it is work that cannot be hurried.

Mr. THURMAN. Mr. President, if what Colonel Squires and Mr. Lambert

say is true, all the more reason for holding night sessions, and we ought to have begun a week ago; I favor this motion.

Mr. MALONEY. Mr. President, I trust these gentlemen will not be in a hurry to get away from here to go to their homes. They are now getting to the most important part of the work. Every member will get his salary in full, and I hope the members will not be in a hurry. I sincerely hope that every member will remain here if it takes all next week and even longer; let us do this work properly.

Mr. SQUIRES. Mr. President, the only objection I have to night sessions is that there are so few present. Now, we had one night session, we adjourned to meet here at half past seven, at a quarter to eight we had a quorum, and the last of the members came in about a quarter to nine, and the highest number we had present that night was sixty-five out of a total of one hundred and seven. Now, I do not like to see important Convention work done by a handful of the Convention. If it is necessary to institute a Convention composed of one hundred and seven men to do this work, I do not believe that we should so arrange our matters as to have the work done by sixty-five. If there is any way of compelling attendance here at night sessions, I should be very much in favor of evening sessions, but I do not like to have the work done by a small handful of the Convention.

Mr. BUTTON. Mr. President, I do not know as I would object to having night sessions, but I cannot attend night sessions. I am perfectly willing the rest should, but it is impossible for me to attend night sessions.

Mr. KIMBALL (Salt Lake). Mr. President, I do not think the willing workers should be held back by those who are indifferent. There are some of us whose business actually suffers for our attention. While I am an employe, the business that I represent in the way

of the home manufactures here in the Territory is actually suffering for want of being represented throughout the country, and while I am willing to work harder and more hours if necessary in order to accomplish this work and do it well, I think those who are not so situated ought to be willing to make some concession to let the country members get home to attend to their affairs and let those who have business get away from here so that we can do it.

Mr. HEYBOURNE. Mr. President, I do not think that the per diem is cutting such a great figure as some of the gentlemen here think, in relation to their statements here this morning, so far as the country members are concerned. As the gentleman has just stated, it is a season of the year when their presence is needed at their labor where they reside, and I do not think that those who are willing to labor should be held back, and I just ask this Convention now to look over these vacant chairs and see who there are that are delinquent here this morning, and there has been no night session last evening. I am in favor of proceeding cautiously and intelligently in this matter, but not wasting time, and I think that we could with propriety hold a night session or two to expedite this business.

Mr. JAMES. Mr. President, of course we all have our opinions and now is the time to express them, regarding the extra hours of work. I am in full sympathy with all the gentlemen that have expressed a desire to finish up this work and get away from this Convention. I know that it is important, and I say to you, gentlemen, that there is no man that regrets so much having to be tied down here in this Convention as I do. I have got business and matters that I want to attend to, and I ought to be away from here, but I want to say this to you, gentlemen, man has just about so much capacity; he can do about so

much work in twenty-four hours and do it well. Now, if he undertakes to go beyond his capacity, he will slight his work. That must be so. Now, this is an ill-conceived room for such a large body of men. The air, although you may have the windows open, gets very bad during the day. When night comes a man is dull and needs sleep. His brain is not active, and if you keep a man working here from 9 o'clock in the morning until 6 o'clock in the evening, you have got about all out of him that nature intended you should get out of him in this kind of work.

Mr. THURMAN. May I ask the gentleman a question? Can you explain how it is on this question of capacity that the members from the country seem to have more capacity for standing this city hall with its bad air and its ventilation than the members from Salt Lake? They are absent—with the exception of yourself. I will give you credit, and Mr. Squires and Dennis, but the others are absent whenever they please. But anyway, explain that question, it is a physiological one.

Mr. JAMES. We all know that the good material comes from the rural districts. I guess that must be the explanation of this. Now, I want to say, gentlemen, in my little observation of constitution making, which I took a little pleasure in examining in the past six or eight months, I found this, coming from the lips of one of the greatest constitution makers that this nation ever produced, in a speech, as to the time occupied in framing a constitution. He says, "Gentlemen, I would not give one fig for a constitution that was formed in less than twelve months." Now, since this Convention has convened and our work has come upon us, the remark of that gentleman has come very forcibly to my mind. It used to be the old rule of conventions to meet and formulate their work, put it into shape, print it and have it go before the people, take an adjournment of four or

five months, come back, and then put four or five more months in upon that work, and by that time they got something that they themselves were satisfied with and the people at large were contented with. And it was what they wanted. Now, I only call your attention to this for the reason that I say do, not be in too big a hurry right now; it is the winding up and finishing up and polishing up of our work that will give it its true ring and will satisfy you afterwards or dissatisfy you, and it will be the same with the people, and I think you had better come here and do a good day's work and take your time and finish this up as it ought to be. Now, here is an article on incorporation. You cannot push things too fast, gentlemen. From the time this matter has come before the committee up to the present time they have been receiving information from the public and advice from the people in reference to this very thing, and you have got to take a reasonable length of time to do the work or else it will not be well done.

Mr. EICHNOR. I would like to ask a question of the gentleman who made the motion; is it the intention to have a night session every day during the session?

Mr. CHIDESTER. No; for to-night.

Mr. EICHNOR. Well, Mr. President, I am going to try it again.

Mr. CHIDESTER. Well, try it once more, and if it does not work we need not try it again.

Mr. EICHNOR. Mr. President, I do not want to praise myself, but I have tried to be a faithful attendant. I do not think it is right for members to get up here and fire promiscuous shots at members from Salt Lake County. Censure those who do not come, but it is not right for those who come here and try to do their best to be insulted. I am trying to do my duty and represent my people, and I say gentlemen ought not to hurry this matter too

much, but I am willing to try night sessions.

Mr. RICKS. Mr. President, I believe when members want to go home the best thing they can do is to put a bridle on their tongues. I have discovered that we have wasted more time here than would have given time to frame three or four constitutions. I believe if that will be followed by country members as well as Salt Lake members we can get away from here shortly. I am compelled to get away from here either Monday or Tuesday. If we let an impression get out over this assembly that when a man talks fifteen minutes he is costing the Convention fifty dollars the speeches will be shorter.

Mr. SQUIRES. Mr. President, ever since I learned that the country members had held a caucus, with a view to shutting off debate in this Convention, I have left the country to do all the talking. Up to the present time this morning, I believe I have not made a speech, and I do not intend to take up the time of this Convention except when I consider it absolutely necessary. I thought they wanted to get away, but they have done all the talking ever since the night they held that caucus.

The motion of Mr. Chidester was agreed to.

Mr. RICKS. Mr. President, I move that it be the sense of this Convention that all the committees report not later than to-morrow morning.

The motion was agreed to.

Mr. ALLEN. Mr. President, section 14 of the article on elections and rights of suffrage was reconsidered last Monday and laid on the table, and inasmuch as some that are here now were not here then and will not be able to vote intelligently as to the taking up of this question, without an explanation, I wish to say, the motion was to this effect, that section 14, and that section only, of the article on elections and suffrage was to be reconsidered, and in order to place the election of judges at

the time of the general election, and a great number of the delegates being absent, it was thought wise to lay it on the table, which was done. Now, this morning the judiciary article comes up and there will be a slight change in that, providing that this motion to reconsider should carry and the section be amended. That is one reason for having this called up this morning. Another reason is, the committee on printing are waiting to see what the result of this motion to reconsider will be. Therefore, I move to take from the table the motion which was laid on the table last Monday, tending to a reconsideration of section 14.

Mr. THURMAN. I do not see why gentlemen are so persistent in wanting to bring this matter to the front. It was out of order to bring it up at all. There was no motion to reconsider that on the day on which the matter was disposed of, and to say the least the only way it can be done is by suspending the rules.

Mr. CRANE. Mr. Chairman, the object of bringing this matter up is that the committee on compilation and revision have now quite a number of articles to hand to the printer; we are trying to keep up with our work as close to the Convention as it is possible to do with revising and compiling the different articles that passed the third reading, and there seems to have been some misunderstanding in regard to section 4. I had an idea that the article as amended provided that the judicial officers should be elected the same year that the State officers were. I do not know what the opinion of the gentleman from Utah County is. I think we both agreed on that matter. There were some objections to it, but I had an understanding that that passed in that form.

Mr. THURMAN. I am in favor of the article just as it passed this Convention myself.

Mr. CRANE. And the way we have

it in the revised copy here, as received from the secretary, it makes it that the judicial, municipal, and school officers should be elected in the odd years, when we do not have any State elections, and that there shall be a separate election for that purpose. It was understood, I believe, at least by me and others on the floor of the Convention, that the judicial officers should be elected at the same time that the State officers were, and thus save thirty or forty or fifty thousand dollars for a general election, that would be necessarily held to elect these judicial officers.

Mr. EVANS (Utah). I arise to a point of order. The point is that the motion to take from the table is not debatable.

The PRESIDENT. The point of order is well taken.

Mr. SQUIRES. Mr. President, I want to inquire if the motion to reconsider was made at a proper time to make it a valid motion?

The PRESIDENT. That is the remembrance of the chair in regard to the matter.

Mr. THURMAN. My understanding is that the motion to reconsider was not made at the proper time, but the motion made last Monday was to suspend the rules and reconsider. This requires a two-thirds vote.

Mr. JAMES. Did not I understand from the gentleman from Millard that the committee on compilation had arranged this matter in the form precisely as Mr. Allen's motion would place it?

The PRESIDENT. I should say not.

The motion to take from the table was agreed to.

The PRESIDENT. The question is now on the motion to suspend the rules and reconsider section 14 in this article on elections and suffrage.

Mr. THURMAN. Mr. President, now if there is any reason in the world for reconsidering this I for one would like to hear it. I do not see any so far as I am concerned. I hope there will be no

lengthy debate on it, but I would like to know the reason the gentlemen have for wanting to reconsider it. If a mistake was made, the mistake ought to be corrected, but if it is some man who simply wants to undo what was done, because he did not carry his point, I hope the Convention will defeat it and let this work go on.

Mr. GOODWIN. Mr. President, I will say in explanation, there seems to be a misapprehension of what the amendments to that section really were, and whether it conflicts with the judiciary article or not.

Mr. BUTTON. Mr. President, it applies to State officers, too. I do not understand the section passed the way some say it did.

Mr. THORESON. Mr. President, while we have section 14 under discussion, I believe it was almost unanimous that the idea was that we wanted the State and county elections to go on only every other year—every even numbered year, but the way the section passed we find that judicial officers, including State and district judges, would of necessity have to be elected on some other time from that of other State and county officers; and in talking with a great number of the members all that I have met were of the opinion that judicial officers were cut out as the section passed; but that is not the fact; we find the word judicial in there, and the committee on compilation always were under the impression that "judicial" had been omitted and that the section passed. We see by this that it will necessitate a State election every year and a county election every year, which is contrary to the opinion and idea of the members expressed both in the committee and in the Convention. For that reason, I favor the reconsideration and the striking out of "judicial" from section 14.

Mr. CRANE. Mr. President, I desire to read the section as it has been revised, and I also desire to resent the im-

putation of the gentleman from Utah County that any individual on this committee desires to satisfy his own selfish ends, to construe, alter, or amend, or in any way, shape or form, change any word, letter or anything else, in any article that has been presented to this committee.

Mr. THURMAN. There has been no such imputation made.

Mr. CRANE. I will see you later. (Reads section 9.)

Mr. THORESON. Will the gentleman allow me a question? Is it a fact that this section was numbered 14 in the original proposition?

Mr. CRANE. In the original proposition that was numbered 14, but if you will observe, there have been quite a number of sections entirely stricken out; consequently on the revision it comes in as section 9. Now, I desire to read the stenographic report. (Reads from proceedings of 36th day.)

Mr. SQUIRES. Mr. President, I submit that the proceedings as read by the chairman of the committee on compilation are exactly as took place in this Convention, and however much we might change that now, I do not think it is wise to go into it.

Mr. CRANE. It is only for the purpose of getting it correct. That was all that we had in the matter, was to get it exactly as it passed the Convention. Now, no one on this committee has any desire in the least to change, alter, or amend one word in any way, shape or form. There is a matter of personal honor in this thing. I do not believe that any gentleman on this committee would dare think of such a thing or has thought of such a thing, and I resent the imputation from any gentleman on this floor to the contrary. It is only to get this matter distinctly before the house that we may understand it, and that this committee in revising may fully understand and get it exactly as it passed this body. There seems to be a disposition among quite a number

of gentlemen on the floor, that this is not the way the section passed.

Mr. THURMAN. Mr. President, I arise to a question of personal privilege. I do not see how any language that I have uttered here could be so misconstrued as it has been by the gentleman from Millard. I had no thought whatever of the committee on revision. The committee on revision never entered my mind. My point in what I said was this, that if a mistake had been made, I for one would like to know wherein it was made, and we would correct it here; but if some gentleman—and to be frank, I had in mind the mover of this motion to reconsider—if they were simply wanting to overturn what this Convention had done, because they were dissatisfied with what we had done, I thought we ought to vote it down. I never thought once about the committee on revision, and there is not a man on that committee that I could be made to believe would stoop to do a dishonorable thing in connection with the work they have in hand or in this Convention. That is all I have to say on the subject.

Mr. GOODWIN. Mr. President, I think the matter is exactly as agreed to the other day, and the gentleman is mistaken in thinking that the election for judges and the city elections and school elections will come in odd years. The only object was to separate two or three of the elections from the main general election. The election of judges, municipal elections, and school elections—that was fully discussed and we passed it, and as Mr. Crane read it, it agrees entirely with our notes. I think the thing is all right as it is.

Mr. ELDREDGE. Mr. President, I just simply wish to say that the section was read by Mr. Crane in verbatim as I have a record of it here.

Mr. GOODWIN. I believe that the section as passed as Mr. Crane read it a little while ago. We might as well be frank in this matter. I plead guilty to

the charge that Mr. Thurman made, or the position that he took, that the men who were defeated when we passed this article are trying to change this now. That is the truth of the matter. We believe it is wrong, and we believe that the judicial officers should be elected when the State officers are elected. That is the whole thing in a nutshell.

Mr. LAMBERT. Mr. President, when this question came up before the compilation committee, there was a difference of opinion. Some of the members of that committee were under the impression that this judicial election was made at the same time as our general election, and it brought about the discussion. Many of the gentlemen surrounding me here are of the same opinion, that we only have one general election throughout the State, and it was for this reason that this question was brought up.

Mr. GOODWIN. Mr. President, I move that the section be accepted as read by Mr. Crane.

The PRESIDENT. The question is on the reconsideration—that is, to suspend the rules.

Mr. HOWARD. Mr. President, I am opposed to reconsidering this article. I think that as passed in the Convention it is just right. That is so far as it can be construed at the present time, and this question has not only been up here in this Convention but has been considered by others in the various parts of the country, and they think it is the right thing to do. I believe that that principle is right and that we ought to adhere to what the Convention has done.

Mr. THORESON. Are you in favor of having special elections—State and county elections for judicial officers apart from State officers?

Mr. HOWARD. I am in favor of keeping municipal and school elections out of politics just as much as possible.

Mr. THORESON. I agree with you on that, but are you willing that the

judges also—the district and supreme judges should be elected separate and apart from other State officers.

Mr. HOWARD. Why should they not be?

Mr. THORESON. Why should they be? That is what we want to know?

Mr. HOWARD. Could you give any good reason why they should not be?

Mr. LAMBERT. I will tell you why. It will cost the State twenty-five thousand dollars and disrupt peace every year.

Mr. CRANE. It will cost them thirty-five thousand.

Mr. THURMAN. I would like to ask Mr. Lambert, will it cost twenty-five thousand dollars, if municipal and school elections are separated, to have a judicial election at the same time.

Mr. LAMBERT. Municipal elections are paid for, I believe, by municipalities; school elections are by the school districts, but this judicial election will be paid by the State.

Mr. THURMAN. But, is there any necessity of the great expense you speak of, and if so, in what will that consist?

Mr. LAMBERT. Why, in paying the expenses of campaigning the Territory—disrupting business, will cost a hundred thousand dollars.

Mr. HOWARD. Does the State pay for all campaign expenses?

Mr. LAMBERT. Well, the people of the State have to pay for them, and people of this State have been crying out for years against so many elections, and every one of your constituents today, gentlemen, is asking for us to lessen the number of legal elections, and lessen this expense that is tearing them to pieces and disrupting their business affairs.

Mr. THURMAN. I desire to ask one further question. This money that is paid out in campaigning, is paid from one citizens of the State to another. It keeps inside of the State lines, don't it, as a rule?

Mr. LAMBERT. Not only that, there is paying the registration officers.

Mr. THURMAN. Does not that keep inside of the State?

Mr. LAMBERT. And printing bills, etc.

Mr. CRANE. Do you not think that there will have to be another registration?

Mr. LAMBERT. Yes, sir; I am of the opinion that there will have to be a special registration?

Mr. CRANE. Do you think these registration officers will have to be paid by the State?

Mr. LAMBERT. Yes, sir.

Mr. CRANE. Do you think there will have to be judges of election?

Mr. LAMBERT. Yes, sir.

Mr. CRANE. Do you think they will have to be paid by the State?

Mr. LAMBERT. Yes, sir.

Mr. CRANE. This last election cost this State twenty-five thousand dollars.

Mr. GOODWIN. Mr. President, if this was not a dignified assembly, I should say this was all rot. This will not place judicial elections on an odd year at all. It simply puts it on a different day, for instance we have the general election on Tuesday; the same rolls are used on Thursday for judicial elections. That is all there is to it. All the expense is a day's work by the judges of election, and the State that cannot stand that ought to go into bankruptcy.

Mr. EICHNOR. I would like to ask Judge Goodwin a question. Is not it a fact that we have fixed the terms of the supreme judges in order that the elections shall not come on the years when the State officers are elected?

Mr. GOODWIN. No, not by any means.

Mr. L. LARSEN. Mr. President and gentlemen of the Convention, we have been economical on this floor when we have said what the salaries would be of the State officers. Here is a matter that it appears to me that we might

rightfully use economy in. I cannot see any reason why our judicial officers should not or could not be elected on the same day and at the same election as our State and county officers. There is no reason that presents itself to me. It has been argued here that we should do this in view of political matters or influences entering into our elections. Now, I do not see that it will make any difference. I do not believe that political ideas will be kept out anyhow, and hence, I am certainly in favor of saving this amount of money to the State, which will amount in the aggregate to many thousand dollars without any question. If we have an election here, in regard to this—members have perhaps exaggerated this amount; it is certain that it will be a great amount of money, and it may as well be saved as to throw it away. I was in favor, when this question was up before, of leaving it to another election for our judicial officers, but after due consideration of this matter, I have changed my mind, and I am now in favor of electing them at the same time and letting our school officers, etc., be elected at some other time.

Mr. ELDREDGE. Mr. President, I am still of the opinion, as I was in the first place, concerning the election of the judicial officers. We provide here that all State officers except those shall be elected on a certain day. Then we leave that measure to the Legislature to say whether that election shall be held on that year or some other year, and if it is held on the odd year, in my judgment, it will be necessary to have a registration anew for judicial officers.

Mr. GOODWIN. That cannot be. It is fixed so that they will come in the same year.

Mr. ELDREDGE. We may suppose it comes in the same year. They hold an election on a certain day in November for all officers except judicial; then a week after or a week before, as the case may be, to hold another election

just simply to elect the judicial officers—what will our constituents say? They will say, "Why, when you were providing for that, why didn't you provide that we get at this work all at the same time? You simply provided for the election of all officers except one class of State officers on a certain day, and then you hold their election over until a week after, and we have got to spend another day in keeping the polls open all day, and devoting our time just for that purpose." Why, it is simply like throwing just that much time away, because the entire work could be done on one day.

Mr. THURMAN. Are you in favor of having school elections on the same day as that of State officers?

Mr. ELDREDGE. Well, I would be in favor of having the judicial elections on the day of the general elections.

Mr. THURMAN. No; but I am asking you now about school elections. Are you in favor of having them on the same day?

Mr. ELDREDGE. Well, there is a question concerning municipal elections and school elections that is quite different.

Mr. THURMAN. Well, if you have a separate election for school and municipal officers, why not elect the judicial officers at the same time, for the same reasons and the same expense? This talk about the expense—there is nothing in it, if you have another election anyway.

Mr. ELDREDGE. So far as that is concerned, I should say to have the school elections on the same day. I think it is just exactly like a man having forty bushels of wheat to take to a mill and his team could carry it all just as well in one trip as it would in five, but in order to spoil two days he is going to take twenty bushels at a time. That is about the proposition. But on the judicial measure I shall certainly vote in favor of reconsidering that.

Mr. BOWDLE. Mr. President, if it

were possible to make the judicial elections entirely non-partisan, and take them out of politics, I would be in favor of a separate election for judicial officers; but in my opinion that is utterly impossible. You can no more make a man that nondescript—neither republican nor democrat—because that is what you would make of your judicial officers, by electing on a different day, than you could do any other impossible thing. If he is a republican he will be a republican, or else he is not any kind of an American citizen. If he is a democrat, he will be a democrat. You cannot change him by electing him on a different day. Now, the argument they use here is, "Why, this won't increase the expense, because we elect on Tuesday, in the general election, and on Thursday the judicial officers." How far does that take it out of politics? The same machinery that you have had in operation to bring about the results of your general election will be in operation to bring about the judicial elections. The same ward heelers that will be working for your general election will be working for your judicial election, and you cannot get away from it. I cannot see how you can possibly, by doing it in that way, make it a non-partisan matter. I would not want to make it a non-partisan matter, as far as that is concerned, because I would not want to take away from an American his political opinions, if I could do it. I would not want that kind of a man on the bench. I would rather put my good friend from Utah County—a good strong democrat, on the bench, and know that he was than, that some nondescript fellow that was neither one thing nor the other. Let me know where a man stands and I do not think politics would have so much to do with him after he would get on the bench, and I would not think that he would be so swallowed up in politics that he could not hear a case and determine it in all its bearings.

Mr. EVANS (Utah). Mr. President, I may state on general principles that I am opposed to this system of going back into the work. However, perhaps no man on the floor can, with more consistency, take the position that I do on this question than myself, having given notice at the time I voted that I was opposed to section 14, but I should never have brought it up of my own accord, and I am of the same opinion yet. I think that this is a condition of things that we can with consistency and propriety reduce the expense a great deal to this new State, and not only the expenses to the State can we save by having these elections all upon one day, but there is no man upon this floor but what from actual experience knows what the effect of these political campaigns is. It was suggested by my colleague that we need not to campaign. That is true, but will we take such advice as that? Experience since our division upon party lines has proved to the contrary, and that is but a theory. We must meet this thing as it confronts us, and I am confident in my mind that the results to this Territory will not be attained by having two general elections, that there will in having them all upon the same year. Now, in regard to the school question, it has been asserted here by every man that has spoken upon this question, that he thinks the school elections ought to be kept out of politics. I want to suggest to you, gentlemen of the Convention, that if you shall incorporate one single election in addition to the school election, you will thwart the plan that you are desiring to accomplish. It has been stated that in July perhaps would be the best time for school elections, and I believe that it is barely possible, and only barely possible too, that if the Legislature were to pass laws providing for an election in July for our school officers that we might perhaps accomplish the object, but if you shall connect one single election, even to a town elec-

tion, you will find that this question of politics will drift right into it. I submit to you that in the town where I live they have drawn lines so very close in politics that a man need not expect to receive a job at the hands of the party that is in power; they employ all the minor officers to the very least that they have, from that political faith. Then talk about keeping that out of politics! I say, let us make these elections uniform. Let us have them upon one year.

Let us gird on our armor of war in politics, fight the battle to the death, and when we get through, let us rest for two years, and we certainly need it. I realize that it requires two-thirds for the reconsideration of this question, and I believe that we will be able to get them. Some gentlemen have come before the Convention here to-day and said that after mature judgment and deliberation they have decided that they voted wrong the other day. There is not a question in my mind as to carrying this, if we could once get this before the Convention as it stood before; so that a majority could carry it.

Mr. THURMAN. Who is it that voted wrong the other day?

Mr. EVANS (Utah). My friend from Sanpete said that he had been converted.

Mr. THURMAN. I think he voted on that same side, and I think that every man who has spoken on your side voted that same way.

Mr. EVANS (Utah). I submit to you that Mr. Larsen from Sanpete stated that he voted upon the other side and that he has been converted now to this way of thinking. Another gentleman from our own county voted upon the other side, and he to-day is prepared to vote on our side, as I believe there are many more here to-day, and that we will obtain the necessary two-thirds to reconsider this matter, as we ought to do, and that we will be able to present this question to our constituents in a

way to meet their approval; and I believe we ought to do it.

Mr. RALEIGH. Mr. President, I am in favor of having as few elections as possible, and as far apart as possible. Hence, I am in favor of electing judges on the same day as other officers. It has been many times remarked that poets are born, not made. Our friend from Washington County says that dudes are born, not made. And I am impressed with the idea that democrats and republicans are born, not made, and that they are both useful in a republican form of government, one just as much as the other, and I am in favor of having, as I said, as few elections and as far apart as possible.

Mr. KERR. It seems to me, Mr. President, as far as I can remember, that the same arguments are being continued to-day that were offered when this question was before the Convention, and I was desirous of being recognized in order that I might move the previous question, but I notice two gentlemen very anxious to speak on the question and I will withhold that for a few moments. It does seem to me we should bring this to a vote as soon as possible. We have already spent an hour on this question.

Mr. CRANE. Mr. President, I desire to read for the information of the gentlemen here from the stenographic report that was held on this section. (Reads from proceedings of thirtieth day.)

Mr. EVANS (Weber). I would like to inquire of the gentleman from Millard which side of this question he is on?

Mr. CRANE. I am on neither side. I want to get the sense of the house, and I want to get this article correct, as there seems to be some dispute in regard to how this article passed the Convention?

Mr. EVANS (Weber). I understand you are in favor of reconsideration, are you not?

Mr. CRANE. I want to get the article correct. My idea is to bring the arti-

cle before the house and get the sense of the house, and if, as we have amended it and revised it, it is correct, I am satisfied with anything. I am not supposed to know anything at all about what passed this Convention when it comes into the committee on revision.

Mr. EVANS (Weber). I wanted to know whether you are in favor of reconsideration. I am, whether you are or not.

Mr. CRANE. My discussion here on the floor of the Convention was that I wanted the judicial election to be held at the same time of the State election, and nothing but the school and municipal elections at any other time.

Mr. EVANS (Weber). You are in favor of reconsideration?

Mr. CRANE. I am in favor of reconsideration.

Mr. EVANS (Weber). Why do you read speeches that oppose it?

Mr. CRANE. For the simple reason that I want to get the correct idea before the house. That is all. I have no personal interest in this matter at all.

Mr. HEYBOURNE. Mr. President, I hope the motion to reconsider may prevail. I am opposed to having elections any oftener than they are occurring at the present time.

Mr. KERR. Mr. President, I arise to a point of order. According to rule 13, a motion to suspend the rules shall be decided without debate. This is a motion to suspend the rules, and all this discussion is out of order.

The PRESIDENT. The question itself is a debatable question.

Mr. HEYBOURNE. I am in favor of the motion being reconsidered. I consider it would be not only a matter of economy, but it would be unwise for us to precipitate so many elections and to have the turmoil that is connected with these elections. Now, so far as school matters are concerned, the election of school officers, I hold that that is open, unless it should be provided otherwise by the Legislature. Various trustees in

the school districts have these matters in hand, prepare all the necessary arrangements and conduct the affairs of elections of school trustees. The condition of the people at these elections is such that it would be calculated to annoy and to perplex them in the selection of the proper officers to direct and manipulate their school affairs, and it was my opinion that when this matter was first passed, the election of the judicial officers and of the school officers were separated, and I am certainly in favor of that proposition now, to keep our school matters entirely separate from the general election.

Mr. HOWARD. You stated that school elections are local. Are not municipal elections local also?

Mr. HEYBOURNE. Yes.

Mr. THURMAN. Mr. President, I am opposed to reconsidering this on principle. I say if we vote here to reconsider this question it establishes a precedent for the reconsideration of any question that any gentleman has been dissatisfied with it in the first place. There are several questions. There are several propositions in this Constitution, gentlemen, that I am unalterably opposed to, and there are men on this floor who stand shoulder to shoulder with me in that opinion. They say they were wrong. Are we going to, because we were defeated on some question in the early days of this Convention, go around and work up a sentiment and get men won over and come in here when some of the men perhaps who took a position on the other side are absent, and get a reconsideration? Is that the precedent that we are going to establish? I say that there is a time for all things. This matter was debated fully, squarely, and face to face, and a man who stands up here now and says he did not understand the vote, all I can say is, he was not giving attention; he must have been reading a newspaper or drawing pictures on his table, or something of the kind. There has not

been a question during this entire Convention that was any more fairly and deliberately discussed than this question that was reported unanimously by the committee, which you now seek to overturn. And, Mr. President, let me say this: Men have talked here about holding so many elections, and when I asked them, Are you in favor of school elections? "Why," they say, "no." Are you in favor of municipal elections on the same day with the State officers, No. You are going to have these elections anyhow. That is the ground I put it on. Now, gentlemen, I say, let us be men. If we want all these elections on one day, that is the way to get economy, and if that is the sense of this house I will vote with you on that. I am going to stand by what this Convention does. I want to stand by what it has done in the past, although I am opposed to many things that are done; but when men say, "We will have school elections separately, we will have municipal elections separately, and we do not want judicial elections, because that makes so many elections," it does not look to me as if it is in good faith. It is an argument that is without foundation. Now, if economy must prevail in all cases—the saving of expense in all cases, let us say that we will have the election of all of these officers on the same day, and if that is your mind, gentlemen, I will vote with you.

Mr. ELDREDGE. Do the same judges of election that officiate for the judicial also act for the school and municipal elections?

Mr. THURMAN. They can. The law can be made to accomplish that very result. Men are talking about our local laws as they now exist. The Legislature can make laws by which municipal officers and school officers shall all be elected and voted for, and the same ballot boxes presided over by the same judges. That is the whole spirit of this provision.

Mr. ELDREDGE. Then, if it was the

case that the same judges presided at all three of those elections, those elections must be on the same year of the general elections?

Mr. THURMAN. It does not matter about that. The article does not provide that it shall be a different year. It simply provides it shall be on a different day. We have been having school elections on a different day. We have been having municipal elections on different days, and the idea was to pick out these officers, gentlemen, that we felt as far as possible might be withdrawn from rank partisan feeling, and put them together.

My friend and colleague from Utah County talks about things being so red hot in his town that it comes down to the question of a man getting a job. I will tell you we will make them red-hot, and they will grow hotter and hotter all the time unless men seek to make some reasonable provision by which we will take some of this hotness out of the business, and that is the whole object of this.

Mr. SQUIRES. Your idea is that the judicial and municipal and school elections should be held on a separate day?

Mr. THURMAN. The same day, so far as that is concerned.

Mr. SQUIRES. The same day, but on a separate day from the general elections?

Mr. THURMAN. Yes, sir.

Mr. SQUIRES. How then would you divide the expense of the election, the judicial officers being State officers?

Mr. THURMAN. Let the State pay its part, the school district its part, and the municipality its part.

Mr. SQUIRES. How would you divide it?

Mr. THURMAN. Why, that belongs to the Legislature to determine. We cannot enter into details here and say how this shall be done and that shall be done. The fundamental principles should be established by us, and let the Legislature work out the details.

Mr. SQUIRES. Wouldn't it be a clear

saving if all the State officers are elected at once? That would leave the State election by itself?

Mr. THURMAN. I don't think so. In the roundup the expense is going to be the same to the people.

Mr. EVANS (Utah). I would like to ask the gentleman if it is not a fact now that as hot as things are in the town in which I live, the municipal elections, school elections, and county elections are not separate to-day?

Mr. BUTTON. I would like to ask Mr. Thurman if in the judicial, school and municipal elections there won't be politics in it?

Mr. THURMAN. I think there will be to a certain extent, but I introduced this resolution early in the session of this Convention, and I put it on the grounds that it would tend towards a non-partisan election, if we can take out some of this red fire—red-hot feeling that my colleague speaks about. Gentlemen, there is that much good. I submit it to every gentleman on this floor that during our campaigns we are temporarily insane; we don't know what we are doing, and I think that we can rise above that to a great extent, if we will take our State officers and the county officers out of our elections. I believe that we can do that. I have evidence of it in our own county.

In school elections we have succeeded down there in many of our precincts in getting together and getting the best men. Can you do that for ordinary State officers or county officers? Now no one dreams that we can do anything of the kind, but there is a feeling that when we can get a judicial officer, without regard to party, there are many men who feel that the object should be to get the best man and unite on him, because he has got to be a man that will be at all times fair, just, and impartial in his decisions, in deciding the rights of men, and as far as municipal officers are concerned, I

have never thought that we could reach that degree of non-partisan feeling in relation to them that we could as to others. But when it was suggested by Judge Goodwin that they be added to the list, I accepted it, because if we can do that, all the better.

Mr. BUTTON. I just want to say that school elections must be different from what they are at Salt Lake City. I want to ask you a question. If we have elections all at once, won't there be less of that hot fire?

Mr. THURMAN. I don't think so. I think three months after a general election, if politics are ever dead they will be dead then, and then is the time to come along and have your judicial and school elections.

Mr. GOODWIN. Mr. President, the only reason I speak is to correct a misapprehension. So learned a gentleman as my friend from Salt Lake seems to have an absolute misapprehension of the principles behind this idea. He does not wish to throw down a gentleman's political opinions and make him a non-entity. Now, I am astonished to hear such reasoning from such a source. The idea is this, that the office of judge, either district or supreme judge, is something so sacred and so exalted that it ought to have the fullest respect and confidence of men. In our deliberations in the judiciary committee, there was no thought of partisanship in apportioning the State, the idea being that the best man ought to be elected judge. Now, if an election for judges was to come to-day, I don't know how other men who are strongly partisan feel, but I know I would vote for the best man. If there was a republican that I thought failed either in legal ability, judicial ability, or in the character necessary for a judge, and his opponent possessed those qualities, I would vote for the democrat. It was that thought that pervaded the whole committee as we fixed the article on judiciary. Now, to put the election on the

same day of these gentlemen that are talking here this morning—some of them will be trading constables for judges, and degrade the bench. That is the idea. Most of this talk about expense is most pitiable. This State has forty thousand schoolchildren growing up, and they are watching things as keenly as young minds always do, and if they are brought up to believe—

Mr. CORAY. Don't you think you could exercise the same amount of judgment on the general election day as you could on any other day?

Mr. GOODWIN. I think I could. I think there are a great many like my friend from Bingham; if he could make a trade on a judge to elect some pet officer, he would be likely to do it.

Mr. SQUIRES. Mr. President, I arise to a question of personal privilege. I would like to know whom the judge referred to as his friend from Bingham.

Mr. RICHARDS. I think the gentleman ought to be excused from giving a bill of particulars.

Mr. GOODWIN. I want to speak to a little personal privilege. Have I ever so given myself away on the floor as to admit that Mr. Squires was my friend? I want to exalt the bench. And if men can go to an election and vote their best judgment on judge or on a number of judges, and the whole expense is what is paid to election judges (because that is all the expense there is), let it be done. We talked this all over. We agreed to it here in full Convention early in the session; and let me say further that in the old states a sentiment is turning more and more to frequent elections, to keep the minds of the people wrought up all the time to a clear perception of their political duties. If it were not for that, we might either have an election once in ten years or delegate four or five men to go and vote for us. This is a republic. All the safety it has is in the intelligence and patriotism of the people. A few dollars' expense on an election to keep the bench exalted and

to make them understand that if they run for that office they cannot be elected simply because they are democrats or republicans, but because they are fit for the place, is well spent. I hope this motion will be voted down and that we will proceed with the regular call this morning.

Mr. BOWDLE. Judge, did you ever know this fine spun ideal to work in actual practice?

Mr. GOODWIN. I have, very often.

Mr. BOWDLE. Did it work satisfactorily?

Mr. GOODWIN. It did. In this city, for instance, we could tell, when the names of some attorneys are mentioned, in one moment which we would think would make a good judge, which we think would make a bright attorney, which attorney we would pick out, if we had some sharp practice we wanted to carry through.

Mr. BUTTON. I would like to know how much politics was kept out of your school trustees' election last fall in the fifth precinct?

Mr. GOODWIN. I am not in favor of the school question. I do not know how many rogues there were there. I know some people were reported to have worked against perfectly straight citizens who inhabit that ward.

Mr. EVANS (Weber). Mr. President, I wish to submit a few remarks on this question.

Mr. KERR. I arise to a point of order. I insist that this whole discussion from beginning to end is out of order.

Mr. EVANS (Weber). I raise the point of order that that question has been ruled upon.

The PRESIDENT. The chair's understanding was that this opened up the whole debate.

Mr. KERR. I appeal from the decision of the chair.

Mr. EVANS (Weber). Business has been transacted since the chair ruled.

Mr. KERR. I would like to discuss the appeal on the point of order.

Mr. EVANS (Weber). It should have been discussed at that time.

Mr. CANNON. I trust the gentleman will withdraw his appeal, for the reason that I think about everybody has spoken who desires to.

Mr. BUTTON. I would like to have the gentleman discuss that appeal, and I want to discuss it. I think there is a mistake before the house.

Mr. KERR. Mr. President, the decision of the chair on this point having been made, I would like to state the point of order.

Mr. EVANS (Weber). I make the point of order, that when the chair ruled no appeal was taken. And it has been discussed for twenty or thirty minutes since that. An appeal must be promptly taken at the time, and not let business be transacted.

Mr. KERR. I did not understand that the chair had ruled upon the question. I was waiting to give the gentleman who made this motion an opportunity to reply without shutting him off, since a number of others had spoken, and I understand that the appeal had not been decided.

Mr. HART. Mr. President, if I remember rightly, there was no expressed decision of the chair at that time. There was a sort of a tacit decision. I would not like to shut off debate here and stop the gentleman from Weber, who has the floor, from talking, yet as a question of parliamentary law there can be no doubt about the position taken by the gentleman from Cache (Mr. Kerr), for this reason, that if it is not a motion to suspend the rules, then the motion to reconsider is out of order.

Mr. EVANS (Weber). I raise the point of order upon Mr. Hart, that he is not talking to any question now before the house.

Mr. HART. I am talking about the appeal by the gentleman from Cache.

The PRESIDENT. The chair will rule the appeal out of order. As I stated previously in regard to this matter, as the discussion has gone on, the gentleman should be permitted to speak.

Mr. EVANS (Weber). Mr. President, I am in favor of a reconsideration of this motion, and I do not believe that any sufficient reason has been given why it should not be reconsidered, and why different action should not be taken by this Convention. It has been argued here that it will take the question of school and municipal officers, and judicial officers, out of politics. Now, we know, gentlemen, that that is not true in the light of the history of this Territory. Of course, we are yet new converts of the school of politics, new converts are always more zealous than old ones. There was an instance in Provo where they undertook, at a separate election, to nominate school officers, and the people of that city bolted the citizens, the nomination. We know it was exactly the same at Ogden, where we had but one school election; no other election was present, and the citizens in one of the wards bolted the ticket, and the voters elected their trustees. We all know that. While it is very nice in theory to separate these elections, and keep them from the whirlwind of politics, yet we know when we face the condition of things that they are not kept out of politics.

There was an effort made here when the people elected their delegates to this very Convention to make it non-partisan. The people were not in a temper of mind to do so, and it was impossible to accomplish it. Even when we convened here, another slight effort was made to make the Convention somewhat non-partisan. It was made partisan by the election of the president and all the subordinate officers, right down to the chairmen of committees. When a constitutional convention cannot be made

non-partisan, tell me, gentlemen, what can or what ought to be? But gentlemen say that if we elect our judicial officers, and school officers, and municipal officers on the same day, it will have a tendency to keep the election out of politics. Why, gentlemen, don't you know that municipal elections are the most red-hot elections that are ever held anywhere? Talking about trading a judicial officer for a constable! What about trading a judicial for an alderman, or a councilman, or a justice of the peace, and all those subordinate officers, right in the very locality where these people reside, where they have their friends? We are running side by side with a councilman and an alderman and a mayor, a State officer.

Mr. GOODWIN. There is no such proposition.

Mr. EVANS (Weber). I am referring now to the argument of brother Thurman, wherein he states that there will only be two elections. He says the State officers will be elected on one day and the school, judicial, and municipal on another.

Mr. THURMAN. I said nothing about trading, did I?

Mr. EVANS (Weber). No. The trading part—I had reference to the gentleman who interrupted me. But, gentlemen, if you have these three sets of officers elected on the same day, you will have politics of the most rank character, trading in the most insolent manner, and if you undertake to separate those elections and hold the municipal election on one day and the judicial elections on another, and the school on another, then you will have four elections instead of one as there should be, or at the outside not more than two. I say that it is almost unprecedented in the United States, and I challenge the contrary—to elect State officers on the same day that municipal officers are elected. And yet that is the very proposition which confronts this Convention, and we must do that unless

we separate those elections and make two out of them instead of one; and if we made two, then we will have three. Why, in the Legislature of 1892, the Legislature wisely consolidated many of the elections in order to keep the Territory out of political turmoil and trouble, and yet it was not sufficiently consolidated. Elections were too many then, but the way this Constitutional Convention is now arranging these elections, gentlemen, we will have more than we ever had in Utah, and we will keep the Territory in constant turmoil and trouble, when we ought to be at peace in transacting the business we are carrying on.

Mr. ALLEN. Mr. President, quite a number have expressed themselves that because this was thoroughly considered once, it should not be reconsidered. Now, there have been two different days or two half days at any rate when the Convention got in a humor of voting down everything that came along. I remember once that the gentleman from Salt Lake said, "There is no use voting down everything that comes along in this manner." Therefore, he moved to have it laid over until another day. It was so on the day this was passed. We got in the habit of voting down everything that came along and we spent half a day on this section.

Mr. THURMAN. And is not it a fact that on the very day you speak of this Convention struck out five or six sections of the article reported by the committee?

Mr. ALLEN. Not the half day. We spent a half day on this section. You speak about blaming somebody because they had expressed themselves as not being aware this passed the Convention. Now, I will say, as the gentleman from Utah one day acknowledged before the people of the Territory in this Convention, that when he voted for bounties, he did not know what he was doing, that he was in the same

condition as he blamed men on this floor for. As for making it non-partisan, if the people wish to make it non-partisan, why not, just at the time of holding caucuses, get together and say, "Boys, let's have a non-partisan ticket and work up a non-partisan ticket as far as possible, as far as judges are concerned?" This is not impossible. I cannot see where anybody is going to gain anything by having this election separate, unless it is during the campaign, as these newspaper men generally make a pretty good haul. Now, the gentleman from Utah comes at me with this kind of a statement, saying that because I was defeated on a motion on that day, I now work it up among the members, trying to get the matter reconsidered. The fact of the matter is this, the gentleman from Utah—this is his hobby. In the committee, he is the man that brought this up and urged it through the committee, and he now wants to hang to that after two-thirds or three-fourths, I believe, of this Convention want this matter changed. He still comes along with some kind of a scarecrow and tries to force us to uphold his own measure.

Mr. THURMAN. You were a member of that committee, were not you?

Mr. ALLEN. No, sir; I was not.

Mr. THURMAN. You were there, were not you?

Mr. ALLEN. No, sir; I was not.

Mr. THURMAN. How do you know that was my hobby in that committee? As a fact that committee was absolutely unanimous. You are talking about something you do not know anything about.

Mr. ALLEN. Was not that your motion? Was it not at your motion that was placed in there?

The PRESIDENT. The chair cannot permit this kind of conversation.

Mr. ALLEN. I have a statement of a reliable man on that committee. If he wishes me to, I will bring the man to him. To be sure, there has been

brought before this Convention, while the majority were in favor and had expressed themselves as being in favor of a certain measure—because gentlemen like the gentleman from Utah would use the words niggardly and stingy, and all these kind of stigmas, then we were afraid to vote and he gained his point. Now, he has come at us in this form for the purpose of gaining this measure that he himself is the father of.

Mr. KERR. Mr. President, I move the previous question.

The previous question was ordered.

The PRESIDENT. The question is on the motion to suspend the rules and reconsider this section 14, now numbered, I believe, section 9.

Mr. VARIAN. Mr. President, I desire to submit a point of order, and in order that I may submit it intelligently, I want to state what I now understand to be the fact. An entire article relative to a distinct subject, to-wit, suffrage and elections, has been passed under the rules, on the third reading, and is now in the hands of the committee on compilation and arrangement. Is that true?

The PRESIDENT. That is true.

Mr. VARIAN. It is now proposed by a motion made to reconsider, not the vote by which the entire article passed, but to reconsider that vote, by a section; that is to say, we are to eliminate in some intangible way, unknown to anybody and inconceivable in the mind, a part of that from the other—segregate it out so far as it applies to section 14, and reconsider that, and bring up section 14 again?

The PRESIDENT. That is the motion.

Mr. VARIAN. I undertake to say, gentlemen, that a moment's reflection will convince every gentleman in this house that that is absolutely, utterly, out of order, and impossible in the very nature of things. I make that point of order.

Mr. EVANS (Utah). I arise to a question of personal privilege. I want to ask

the gentleman from Salt Lake if this body has not got the power to undo anything they have done from the day this Convention began in regard to their rules? This is a motion to suspend the rules for that purpose.

Mr. VARIAN. I will answer that by saying yes, with this qualification: It can, upon the final consideration of this entire Constitution, change anything that is in it. They can, if they choose, reconsider the vote. They can suspend the rules now and reconsider the vote by which the entire article was considered, and recall it from the committee on compilation, but they cannot undertake to recall a section or a line or a phrase, or two sections, or any part of it; and if you do that you will be simply in a disturbed and confused condition from which you will never come out satisfactorily. If you want to do that, make your motion to reconsider the entire article, and recall it from the committee.

Mr. EVANS (Weber). Mr. President, this seems to me a very peculiar thing indeed. Mr. Varian admits that this body has the power to undo and change its work as a whole, but he denies the power to change a section or a word. That is to say, he admits the power to rip up the entire instrument and change it, but denies the power to change a section of it. It is not in the parliamentary law that any parliamentary body with the power to act cannot reconsider a section and change its rules, and change its work if it finds it has made a mistake.

Mr. RICHARDS. Mr. President, I think that the position of the gentleman from Salt Lake who raises this point of order was not correctly stated by the gentleman who last spoke. I do not understand that Mr. Varian says that this Convention could reconsider the whole article and then could not reconsider a portion of it, but he says it must be done in an orderly way, and I think he is right about it. I do not

think there is any sort of question about it that the first thing to be done in order to bring the question before this Convention at all is to move to reconsider the vote upon the article. Then, if that should prevail, and the article then, as an article, is before this Convention, a motion to reconsider the action upon any section of that article, or to amend a section of it, might be in order; but it certainly cannot be in order until it is brought before the Convention in an orderly way.

Mr. EVANS (Weber). I would like to ask Mr. Richards what rule of order it follows? We are under Roberts's rules of order, which say that two-thirds of the Convention can change its rules.

Mr. RICHARDS. I say it follows every rule of order.

Mr. RICKS. I arise to a point of order. I don't think the gentlemen have a right to discuss this question.

Mr. EVANS (Weber). The orderly thing to do is for the president to decide this. It is not debatable now. We have all been out of order.

Mr. CANNON. I would like to ask Mr. Varian if the gentleman who made the motion to reconsider should modify it slightly in its form, if it would not accomplish the same result and yet obviate your objection—if he should move to reconsider the vote on the article?

Mr. VARIAN. I admit this, that this Convention can reconsider by a two-thirds vote and bring back any article. I am only contending against the absurdity of attempting to bring back a paragraph or a section of an article.

Mr. THORESON. Wasn't this same rule applied for the reconsideration of section 1 of this same article—a motion to reconsider made by the gentleman himself?

Mr. VARIAN. Never. It seems impossible for me to make myself clear to the gentleman. There was never such a proposition mooted before in this

body, and I doubt if it ever was thought of in any other body.

Mr. NEBEKER. I arise to a point of order. I hold with the gentleman from Salt Lake—

Mr. RICHARDS. I arise to a point of order, that the gentleman is out of order until the chair decides the point of order now before the Convention.

The PRESIDENT. It seems to the chair that this body of men is competent to suspend its rules at any time it may think proper and to consider any proposition involved in this Constitution before they shall adjourn.

Mr. RICHARDS. I appeal from the decision of the chair, if that is a decision against Mr. Varian's point of order.

Mr. NEBEKER. Mr. President—

Mr. EVANS (Utah). I arise to a point of order. This question that has been appealed from is undebatable.

The PRESIDENT. The point of order is well taken.

Mr. VARIAN. What is that—an appeal is undebatable?

Mr. EVANS (Utah). Yes, sir; if the question appealed from is undebatable.

Mr. VARIAN. A motion to reconsider is not debatable? Is it the disposition of this chair to rule this matter as the chair desires it to be ruled? If it is, I will retire.

The PRESIDENT. No, sir.

Mr. VARIAN. It seems to me that way. I will ask the chair if a motion to reconsider is not debatable?

Mr. EVANS (Weber). Mr. Varian will you permit me to—

Mr. VARIAN. No, sir; I will not. I will ask that question now.

The PRESIDENT. Yes, sir; it is debatable.

Mr. VARIAN. This is an appeal, is it not?

Mr. EVANS (Weber). This is a motion to suspend the rules, and that is not debatable.

Mr. VARIAN. I do not care if it is a motion to suspend the rules. I understand that. It is a motion to suspend

the rules and bring back from the committee on compilation one section of an article. That is what it is. Now, what do your rules say? They say that after the entire proposition shall be passed by a final vote, it goes to the committee on compilation and arrangement. What is the vote you are going to reconsider? Not the vote by which this section was adopted. I do not know whether there was any specific vote on that or not. In accordance with the usual custom here, that section was passed simply with the reading. No amendments were offered to it. It was included with the others in the final vote upon the proposition as an entirety. How can you move to reconsider a vote which never was taken in the adoption of this section in the sense here? The motion is to reconsider the vote by which section 14 was adopted. It never was adopted by a specific vote. The entire article, including other propositions connected with section 14, was adopted by a specific and definite vote. You cannot segregate it in that way. It is the clumsiest blacksmithing of parliamentary law that ever was projected anywhere. Section 14 was adopted because other sections were with it. As a whole it was adopted. Now, if you want to open up the question, move to reconsider the vote, out of order and against your rules, by which the entire article was adopted, and let the entire article come back here so that we can view it in all its phases, comprehend it in all its possibilities. If section 14 shall be amended, it may be necessary in accordance therewith to amend section 15 or section 10 or section 1. Is there any scheme behind this which makes gentlemen so tenacious of the point that will prevent us from bringing back the entire article? If there is any reason, gentlemen, why this section must be amended, it must be a good reason. If there is any reason why this article should be amended, it is a good reason, and I am

sure will not only get two-thirds of the vote of this house, but it will secure the unanimous vote of this house. I only ask you to put it on proper grounds. I do not know how section 14 is proposed to be amended, but I can see that it may be amended in such a way that in my judgment, and perhaps in the judgment of others, it might be necessary to amend section 16, and we would be met with the proposition that we only have section 14 back here.

Mr. HART. Mr. President, there can be no doubt, in the first place, but what this appeal from the decision of the chair is debatable. If the point was relating to indecorum, then it would not be debatable. When the previous question is pending, an appeal is not debatable, but, Mr. President, the previous question that was put here was out of order, because the motion at that time was to suspend the rules, and the previous question could not apply to an undebatable motion, which that was, to suspend the rules. Now, in regard to this other point, I would be only too glad to eliminate that word judicial and have the judicial elections come at the general elections, but there can be no doubt about the position of the gentleman from Salt Lake, that the only way to reconsider that question is to reconsider the vote on the whole article, and if by a two-thirds vote we open up that question, then every section in that whole article will be open for reconsideration. All the debate this morning was out of order from beginning to end. If we were going to reconsider this question, we should have, without debate, decided to reconsider the article as a whole. You cannot take out one of those sections from a whole article that was passed, on a vote to reconsider. And another reason for the point of order is that that whole matter is before the committee on compilation and arrangement. How can we reconsider something that is in their

hands without calling it back and getting it before the Convention?

Mr. FARR. Mr. Chairman, I have sat here a whole half day listening to talk that to me should not have been said, and should have been settled here in two minutes, and I claim that I have some experience in convention rules and in convention order, and if this Convention, after they have passed on the third reading of an article, say that one section now they would like to consider, we do not want to consider anything more, we are satisfied with all the rest, but section 14 we would like to have brought up, and there was a motion made to do it, and when the question is put two-thirds say we won't have it, that is the end of it. I think we could settle that in two minutes, three hours ago, just as well as if we had spent all that time; and if two-thirds had said we want to recall section 14, and consider some things in that, and no other, we are satisfied with all the rest, and if two-thirds say, we will call it up, they have a right to do it. And now what is the use of spending all this time on that subject? I have been waiting here. I had a section already written out with one-third or one-half of the wording that is in that section 14, that will cover the whole business. I have not been able to get my feet on the floor because there are so many that wanted to let out the gas that was in them, and I told you here four weeks ago that I had arranged my business to remain here all summer, if necessary.

Mr. GOODWIN. Mr. Chairman, I want to make an explanation. This thing came back from the committee on compilation because there was a difference of opinion in the committee; the notes were confusing, and as I understood it from the first, they wanted simply an expression of this Convention as to what that amendment was, whether it included the word judicial or not. It was in the interest of the com-

mittee on compilation that this thing was brought up.

The question being taken on the appeal from the decision of the chair, the Convention divided, and by a vote of 34 ayes to 51 noes, the decision of the chair was not sustained.

Mr. SQUIRES. Mr. President, I now move that the rules be suspended and the entire article on elections and suffrage be brought back from the committee on compilation and arrangement, that the vote be reconsidered by which that article passed.

Mr. THURMAN. Including woman's suffrage and everything else.

The question being taken on the motion, the Convention divided, and by a vote of 44 ayes to 46 noes, the motion was rejected.

The Convention then proceeded to the third reading of the article entitled judicial department.

Sections 1 and 2 were read.

Mr. CHIDESTER. Mr. President, I offer an amendment to section 2, by striking out, commencing with the word "the," in line 10, down to and including the word "years," in line 14, and insert the following:

The State shall be divided into three supreme court districts as follows: The first district shall be composed of the counties of Cache, Rich, Box Elder, Weber, Morgan and Davis. The second district shall be composed of the counties of Summit, Salt Lake, and Tooele. The Third District shall be composed of the counties of Beaver, Carbon, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Uintah, Utah, Wasatch, Wayne and Washington. The qualified voters of each of said districts shall elect the said judges for the term of six years.

I would say, Mr. President, that it is not my desire to create a debate that will last here all day. I simply wish to submit this to the gentlemen of this Convention, who will see the propriety of it at once, allowing the State to be districted for the supreme judges as well as the district judges.

Mr. ROBISON (Wayne). Mr. President, I hope that amendment will not prevail; the classifying of the counties in that district would not be suitable at all, and it would not add any to the benefits of the people, but it would be very much the other way, and I shall vote against that proposition.

Mr. JOLLEY. I would like to ask the gentlemen from Garfield a question. There would be only the three judges that would fill those different districts?

Mr. CHIDESTER. There would be one judge from each district that would compose the supreme court of the State.

Mr. GOODWIN. Mr. President, I hope that will not be considered. The idea is to have three of the very best men for the place, no matter where they come from, and all the people to help pay for their services and all the people to vote on them.

Mr. ANDERSON. Mr. President, I hope this amendment will prevail. I think that it enables the people to be better represented. Each part of the Territory, if this amendment prevails, will be represented, and I do not think that the State will suffer any in consequence. Therefore, I shall vote for the amendment.

Mr. VARIAN. Mr. President, this is a startling proposition. It seems to have been incubated since we discussed this question in the committee of the whole. So far as I am concerned, I supposed we had reached a tacit if not an express understanding on that matter. Is it designed to open up this entire question of the judiciary, in order that we here who differ from our friends from the extreme south and north on these questions may also be enabled to present our particular views by way of amendments and substitutes, and make an attack upon this article as it comes from the committee? It seems to me, Mr. President, that we had reached a fair understanding on this matter, and it ought to go. I con-

fess I do not understand the purpose of this motion. That it is not meritorious, I am quite convinced. Justices of the supreme court ought to be the representatives of the entire people, just as much so as your governor. They are called upon to administer and determine the laws for the entire people. They are the expounders and protectors of this Constitution, which extends its protecting influence over the entire people. The man in Logan, the man in Saint George, ought to have the equal right to voice his choice in the selection of candidates for all three of these high and distinguished positions. He is equally interested with his neighbor at the other end of the Territory. Every county is equally interested with every other county. It ought not to be and shall not be a question of locality. It is simply the men that shall be looked to—the qualifications and characteristics of the candidates who shall be selected by this entire people to constitute that august tribunal in whose hands shall lie the liberties, the property, and the lives of this people. I protest against this attempted innovation. It does not prevail under our system of government anywhere. The highest court in the State is and ought to be composed of men who are selected from the body of the people, from whatever section or locality they may come. Do not gentlemen see that it is all important that all sectionalism, that all local prejudice ought to be and must be eliminated from this tribunal? And you are now attempting to inject into the organization of the supreme court these very things which ought not to be there, to send men from local places, feeling that they are representatives of districts, bound and tied by the prejudices of their respective communities. Naturally you will find that these matters will be given expression in the consultations and in the decisions of the supreme court. What is the theory of the organization of the supreme

court of the United States? That it shall be selected by the President through his power of appointing its several members from the great body of the bar of the United States. When it can be done, due consideration is always given to the wishes and the preferences of certain localities as represented by states and sections of the Union, but never in the sense that is attempted here by this amendment. If it had been so, sir, I would like to ask you, and through you this Convention, what would have been the result in the expounding of the Constitution during the last hundred years, which has resulted in building up and maintaining the liberties of this people? I do hope that the amendment will either be withdrawn or voted down. It ought not to prevail.

Mr. THURMAN. Mr. President, I am a member of that committee which reported the article as it now stands. This proposition was submitted or raised in the committee. The committee, I believe, was about equally divided. There was no minority report. I myself am in sympathy with the principle embodied in this proposed amendment. I do not see that there is anything in it that is un-American. There are certainly precedents for it. I do not see anything in it that is confusing or that is calculated in the least degree to cause a member of the supreme court to be sectional in his decisions and opinions. So far as I am individually and personally concerned, I am perfectly willing that it shall stand in the article as it is, but members have come to me from the various parts of the Territory, without regard to party or anything of that kind, and have insisted that this amendment be made. Waiving any personal feeling that I may have in the matter, if the various parts of the Territory of Utah feel that they want the right to vote for some one man taken from their section of the country, there being only three members of the court, I see

no reason why it should not be incorporated in the Constitution. To be frank, the only feeling that I have in my mind against this amendment is the mere fact that I am a member of the committee and stand here, so far as I possibly can, to help carry to a finish everything that that committee has recommended here, because we did arrive at it. We arrived at our conclusions after mature deliberation. As far as this particular provision was concerned, it is almost difficult for me now to understand how the full committee would have voted. I know the only vote I ever cast upon the question was in favor of this principle, but I did not propose to make any fight in the committee until I saw a sentiment from the various part of the Territory that they desired it. At the time I voted for it, it carried, but I do not care about going into details about what the committee did. I do not know. At any rate that was reconsidered and the other matter prevailed, but I feel that if the outside counties desire to have three districts, so that they can put forth from each district a man for this position, there is nothing un-American about it. The Constitution of the state of Illinois has a provision of that kind.

Mr. VARIAN. The constitution of Illinois provides for an intermediate court of that kind, like the constitution of New York, but the court of appeals is at large. I want to ask the gentleman a question. It is a question of local politics now, is it prejudice, so that each section of the country may confine themselves to a member of the supreme court to be elected by them? I want to know if that is the underlying principle while we are making a Constitution?

Mr. THURMAN. I am not aware that local politics is in it.

Mr. VARIAN. I mean by politics, not as distinguishing between two parties, but as between the sections. I understood the gentleman to say that

they wanted to have a section of country to which should be allotted a member of the supreme court to act for the entire State?

Mr. THURMAN. Yes; that is the idea. Now, I believe, Mr. President, that I have stated my views upon the question and I shall vote for the amendment.

Mr. VARIAN. Did I understand the gentleman to say as a member of the committee that he would vote for the amendment?

Mr. THURMAN. I shall vote for the amendment, yes.

Mr. GOODWIN. Mr. President, that is to me a very serious matter. I thought the supreme court would be held above the influence of sectionalism, and that any suspicion of doubt that every man in the State might have the privilege of voting for every one of these supreme judges, would be removed; and that when those gentlemen took their seats on the bench they would understand that they were there because a majority of all the people of the State desired them to be there. It is very strange. In districting the State, or proposed State, for district judges, gentlemen came to me and said, "Do not link our county with the next county to us," showing evidently that there was an irrepressible conflict between those counties; but they come here this morning and propose another thing, which in effect says, "Do not link our end of the State with the other, and by all means do not link us with the center." I once saw a gentleman exulting—saw him getting drunk, because a second gentleman had received a high appointment from the President of the United States. Both the gentleman who received the appointment and the one who was getting drunk, were from Kentucky. Another Kentuckian said to this gentleman who was exulting, "Why, I heard you call that man all manner of names, and now you are rejoicing because he has received an ap-

pointment." "Why" he says, "of course I am, but that was in Kentucky." It seems to me this is a parallel case. Gentlemen in one part of the State will, among themselves, say all manner of disrespectful things about a certain other gentleman, but when he is put in competition with men from any other part of the State he becomes a perfect gentleman in a moment, and justifies any other gentleman in exulting over his promotion. It is all wrong on principle. Let it go on ten years, and you will see just as much partisanship in the electing of supreme judges and in the feeling toward them by the people as you ever see now in any business where the sections of the State are brought in collision. We had enough of that last week. Even on the simple matter of education, there was no end of bitterness expressed, and so poorly concealed, that it was apparent—simply on a sectional matter, whether one county should have something or not.

I think it would be an outrage to change this. I do not believe there is any precedent for it. We have divided the State for district judges, and I want to give notice here that if this passes, then I will consider it a notice that every district in this State must be a political district. When it comes to the right place, I shall move for a change of the districts to make them all republican, if that is to be the rule—if that is to be the contest here. If the judiciary is to be dragged down, and we are to either elect them on sectional or partisan grounds, then I, as a member of the committee, give notice that I will do my best to make every district in the State republican.

Mr. RICHARDS. I desire to ask the gentleman who has just taken his seat, if he has not already done his best to make these districts republican? I ask for information.

Mr. GOODWIN. I want to say to the gentleman, that in the committee room there was not one partisan

thought, that the only thought was to get these districts harmonious, and to rate them in fair proportion to the population. On complaint of the gentlemen from the south, on account of mountain ranges and other things, the districts had to be changed. I appeal to all the members of the committee, if there was one partisan word spoken, or if there was one act which led any one in that committee to think that any other one was working for partisan advantage?

Mr. EVANS (Weber). Mr. President, I will say that what Judge Goodwin has said respecting the matter of partisanship in the committee is true, every word of it, and there was never a thought expressed or an idea conveyed, which would tend, in any manner, to give partisan advantage. It is a matter about which I feel very proud, and desire to express it now. I do not want to take any particular part in this matter that is up now, because in the committee we first voted to make the three districts, as proposed by Mr. Chidester, districts for the trial judges, and apportion the number of judges to each of these districts, and then we did take a vote to make these districts supreme court districts, just as it is now proposed, and that carried, but afterwards the districts for trial judges were changed, and then, on a tie vote, the supreme court districts were changed. All I desire to say now is, that I have examined the constitution of Illinois, and I think that my friend, Mr. Varian, was mistaken about a court of appeals being elected by districts. It is the supreme court that is elected by districts in the state of Illinois. They are all set out in full in the constitution, just as Mr. Chidester's motion is set out.

Mr. GOODWIN. Mr. President, before this vote is taken—there are a great many absent, and some are on committees near by. I wish they might be called in.

The PRESIDENT. The sergeant-at-arms will notify the members that they are wanted.

Mr. CHIDESTER. Mr. President, as far as this amendment is concerned, we will not press it. If they are not ready, we can go on with something else.

On motion, the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. CHIDESTER. Mr. President, I desire to withdraw the motion that I made to amend section 2, and in doing so I just have this to say, that in view of the fact that concessions have been made to the outlying counties in framing this bill, giving them practically all that they have asked, I believe that it is fair to them and would be right and proper for me to withdraw that motion. I see in addition to that, fire in the eye of my friend, Judge Goodwin, and I do not wish to add any fuel to the flames. Therefore, I wish to withdraw it.

Mr. KERR. Mr. President, I desire to offer the following amendment to section 2: Beginning with the words "the judges," in line 14, strike out the words down to and including the word "elected," in line 16, and insert in lieu thereof the following:

The judges of the supreme court elected at the first election under this Constitution, shall immediately after said election be selected.

It will be observed that the section adopted by the committee is somewhat similar, but this more clearly expresses the meaning. There is only one set of judges to be selected by lot, they being the judges elected at the first election under the Constitution. It seems to me that the wording therefore could be improved, hence I offer the amendment.

Mr. EICHNOR. I would like to ask Mr. Kerr a question. The way the section stands, it contemplates that the

judges of the supreme court shall be elected in November next, does it not?

Mr. KERR. Well, the preceding sentences in this section provide, I think, for the election of the judges.

Mr. EICHNOR. Judge Goodwin, is it the intention of the section, the way it stands, that the supreme judges should be elected at the general election in November—that is, the first set of supreme judges, and afterwards according to this rotary system?

Mr. GOODWIN. Yes.

Mr. RICKS. Mr. President, I think that amendment ought to be considered. If, as still contemplated, we amend that section in the article on elections so as to include the judicial officers in the general election, then under the schedule—the schedule committee has already decided to elect all the State officers, this fall, in order to hold office until the general election under the Constitution in 1896. If that amendment be made to that other article, then I think that the section should remain as it is for the reason that the judges elected this fall would only hold their offices for one year and would be elected again, all three of them, one year from next November.

Mr. KERR. Mr. President, by way of explanation, you will observe that the statement here is not qualified—"The judges of the supreme court." That is, all the judges of the supreme court; but the way it is worded in this proposed amendment, only those judges elected at the first election after the adoption of the Constitution, will be selected by lot. That is really all there is to it.

The amendment of Mr. Kerr was rejected.

Sections 3 and 4 were read.

Mr. VARIAN. Mr. President, in view of the amendment made in the committee of the whole, it occurs to me that the word "it," in line 4, should be supplanted by the words "the court."

Mr. CREER. The word it, is already out.

Mr. VARIAN. Perhaps that is a matter for the committee on compilation. I will not detain the Convention with it.

Mr. GOODWIN. Mr. President, I understood the secretary in reading it to say, "any judge." There is another section here which gives the Legislature the power to establish inferior courts. Under this would not those judges have the same power in regard to issuing writs?

Mr. VARIAN. Mr. President, I move to insert after the word "court," in that amendment, the word "thereof," so that it would make it returnable before any district court or any judge thereof.

The amendment was agreed to.

Section 5 was read.

Mr. KERR. I would like to ask the chairman of this committee if he has considered the number of miles that some of the judges would have to travel to hold court in the different counties four times a year. In the 7th district, including the counties of Sanpete, Carbon, Emery, Grand, and San Juan, I find that he would have 368 miles to those courts, and returning would make a distance of 772 miles. If he went the rounds of these courts four times a year he would necessarily have to travel 3,088 miles. He would have to travel 330 miles by stage, and those who live in the outlying counties know what it is to travel by stage, summer or winter. Going from Richfield to Piute County, to Carbon County, he would have to travel 128 miles. From Price to Castledale would be 35 miles by stage. Very frequently they have to camp out over night in the sagebrush, being overtaken by a storm even in the summer sometimes. He would have to return and thence to Thompson's Spring, a hundred miles, thence to Moab 35 miles, and from Moab to Monticello, 60 miles. I am sure that our friend from San Juan County can describe the trip down

there much better than I can, and I am sure that the majority of the members of this Convention can scarcely realize what a trip down in that country means in the winter time. I don't believe it is possible for a man to make the trip. Now, it seems to me that in some of these outlying districts—

Mr. BOWDLE. I arise to a point of order. There is nothing before the Convention.

The PRESIDENT. The point of order is well taken.

Mr. CRANE. Mr. President, I want to state the proposition, whether there is anything before the Convention or not, because I do not believe it is possible for a man to do it, and if this thing is mandatory, he cannot do it. I move to insert at the end of year, in line 7, the words, "until otherwise provided by law." I don't know whether that would meet the requirements of the case or not. Some of my legal friends here are probably better posted than I am. But it is an utter impossibility for a man to make three thousand miles in winter or summer in these counties. I am informed by the chairman of this committee that that was added the other evening. The secretary has failed to read this amendment that was passed the other evening.

The PRESIDENT. The secretary says there is no such amendment.

Mr. CRANE. I am informed by quite a number of gentlemen by whom I am surrounded that such an amendment passed. I move it now, however, if it did not pass.

Mr. ROBERTS. Mr. President, my recollection of this matter is very distinct, for the reason that it was regarded as a compromise of the motion to make it two terms a year in each county instead of four, and in order to leave it to the Legislature that amendment was submitted and adopted.

Mr. CRANE. Then, Mr. President, I make a motion now that after the word "years," in the end of line 5, there shall be

inserted, "until otherwise provided by law."

The amendment was agreed to.

Mr. KERR. Mr. President, I move that in line 8 of section 5, the word "thirty" be stricken out and the words "twenty-eight" inserted in lieu thereof.

Mr. SQUIRES. I would like to ask the gentleman from Cache who his candidate is? [Laughter.]

Mr. KERR. I think, Mr. President, that we have placed the age of our attorney general at twenty-five years and our senators and representatives at twenty-five. The United States senators need not be older than thirty, the President of the United States but thirty-five. In Georgia, Illinois, Montana, North Dakota, and South Dakota, the district judges need be but twenty-five. In Wyoming, and some of the other states, the district judges are eligible at twenty-eight. It seems to me that for district judges they are old enough, and in some of the districts it may bar men who are thoroughly competent to fill the position as district judge to place the age at thirty.

Mr. GOODWIN. Make it twenty-seven.

Mr. KERR. I will accept that.

Mr. GOODWIN. Alexander conquered half the world at twenty-seven. Make it twenty-five.

Mr. VARIAN. Make it twenty-five.

Mr. FARR. Make it twenty-five and a half.

The question being taken on the motion to fix the age at twenty-five, the Convention divided, and by a vote of 46 ayes to 36 noes, the motion was agreed to.

Mr. EVANS (Weber). I desire to offer the following amendment to section 5, after the word year:

All civil and criminal business arising in any county must be tried in such county, unless a change of venue be taken in such cases as may be provided by law, or upon consent of the parties, in writing, in civil cases.

Mr. VARIAN. What is the necessity for that?

Mr. EVANS (Weber). I think the article by implication now would require that all the business should be transacted in the county where it arises. My only purpose was to make it certain that all the business should be tried in the county where it arises, and I want to add this with the qualification there of cases where a change of venue might be taken as provided by law. There may be some criminal case where all the jurors in the county are prejudiced and it would be necessary to remove it into another county, and then in civil cases, if parties want to stipulate it into another county, they can do so.

Mr. VARIAN. Won't that amendment cut out the general proposition for a change of venue in civil cases, whether the parties stipulate or not?

Mr. EVANS (Weber). I think not.

Mr. VARIAN. It seems so to me; that is purely a matter of legislation anyhow.

Mr. EVANS (Weber). Stipulation is a matter, anyway, of consent, and that might be stricken out—that part of it. If there is any objection to that I would ask that that part of it be stricken out.

The amendment as modified was agreed to.

Sections 6 and 7 were read.

Mr. James was called to the chair in the absence of the president.

Mr. VARIAN. Mr. President, I call attention to line 3, the words, "not prohibited by law." Is it the intention to permit the Legislature to change the jurisdiction?

Mr. EVANS (Weber). Mr. President, my own idea about that is this, that the Legislature might restrict the district court in small cases—not give it jurisdiction in small cases, but give the justices of the peace jurisdiction?

Mr. VARIAN. But would it not also give them full plenary power over the whole subject?

Mr. EVANS (Weber). It would give

a supervisory power to control justices of the peace.

Mr. VARIAN. I mean, if the words, "not prohibited by law," would not include the whole subject?

Mr. EVANS (Weber). I think it would. I think the Legislature would have that power.

Mr. THURMAN. Mr. President, in the first section, the gentleman from Salt Lake will notice that the Legislature is given the power to create other courts inferior to the supreme court, and necessarily to fix a jurisdiction. Suppose they should want to create a probate court, after trying this system a while, in each county, and give probate jurisdiction?

Mr. VARIAN. If that is the idea, all right. I did not understand it.

President Smith resumed the chair.

Section 8 was read.

Mr. CRANE. Mr. President, was not "precinct" inserted there instead of "county?"

Mr. RICKS. Mr. President, "county" was stricken out and "every" was stricken out.

The SECRETARY. Strike out in line 3, section 8, the word "from," and insert the word "in," and strike out the word "county," and insert the word "precinct."

Mr. GOODWIN. Mr. President, that is exactly the record, but it seems to me that it makes an inconsistency. Every city is divided into precincts and every incorporated town is divided into precincts, and so is every county, and it seems to me if that was to go in it ought to read this way: "Be elected in each precinct of each county, city, and incorporated town."

Mr. SQUIRES. Mr. President, in Salt Lake City it is the practice to have more justices of the peace than we have precincts. You remember we have had a recent contest on the question of the power of the county court to have additional justices of the peace. The Legislature will provide by general law

how many justices of the peace there should be in each precinct in the city and incorporated town. The city of Salt Lake might have more than one precinct under the general law.

Mr. GOODWIN. What is to become of the precincts outside?

Mr. SQUIRES. Each precinct of the county?

Mr. CREER. I would like to ask the chairman of the committee if it is intended that there should be one justice of the peace elected for each incorporated town in the new State?

Mr. EVANS (Weber). It says the Legislature may determine that.

Mr. GOODWIN. Sometimes there are two justices in one precinct.

Mr. CREER. If they incorporate a town, divide it into precincts, that would necessitate having two justices of the peace.

Mr. GOODWIN. I merely wanted it to correspond with what the Convention wants.

Mr. CREER. I do not think we need a justice of the peace in an incorporated town. I think a justice of the peace of the precinct in which the incorporated town will be included is sufficient. Therefore, I move to strike out "and incorporated town."

Mr. THURMAN. Mr. President, I wanted to move an amendment to that, to strike out "city and incorporated town," and leave it "county." We are dealing here with counties, because the number of justices of the peace that each city will have will be provided for by their charters. We are dealing now with justices of the peace of the county. If the Legislature gives each county a certain number of justices of the peace and leaves the commissioners to dispose of that, and they make the precincts as needed, it seems to me that is what we want.

Mr. THORESON. Mr. President, I understand it was amended in the committee, namely, that "county" should be stricken out and "precinct" retained.

Now, if we want to cut this up with municipal precincts, I have heard some of the gentlemen here speak about precincts of the city. Those are municipal precincts. That would come under the city; but precincts of each county should have a justice of the peace. Cities of the third class in our Territory have no municipal precincts. A certain district or part of the county is designated a precinct. Within that precinct there may be a city of the third class. That city should be entitled to a justice of the peace independent of the precinct justice. The city justice would have jurisdiction under the ordinances of the city, while the precinct justice of the peace would have under the laws of the State. I believe we should have precinct justices and also city justices.

Mr. EICHNOR. I would like to ask Mr. Thurman a question; if the section is adopted according to your amendment, if the cities should provide by ordinance for justices of the peace—if city justices of the peace were provided for by ordinance, would the ordinance be constitutional?

Mr. THURMAN. Why, I think so. I think we are dealing here with another set of officers altogether, but, however, if there is any question about that, then an amendment ought to be made in another way, such as the gentleman may have in his mind, provided that this shall not interfere with such number of justices of the peace as may be provided by law in incorporated cities and towns. I would not object to that if there is any doubt about it, "the Legislature shall determine the number of justices of the peace to be elected from each county in the State and fix by law their powers, duties and compensation." Now, in my judgment the city charter will provide for that, and of course this law would not interfere with it.

Mr. THORESON. Mr. President, that would give the county courts the power to designate the justices of the peace.

I think this is a power that should be left to the citizens themselves. Justice of the peace for a certain county—to designate where these should have their office or residence would be inconsistent, would be giving the county organization power over cities, which I think is a little inconsistent. The ordinance of the cities would provide for justices of the peace, and I think they should be independent of the county organizations.

Mr. THURMAN. I would like to make one suggestion, if the chair will indulge me, in answer to the gentleman from Cache, that the Legislature has the fixing of this number of justices of the peace anyhow; they always will have, whether in the county or whether in the city; there is no question about that, and when we say that the Legislature shall provide for the number of justices of the peace to be elected from the county they certainly will provide that so many be elected for the ordinary precincts, and the law itself will provide the number to be elected.

Mr. CANNON. I would like to ask Mr. Thurman if he would not strike out also the words "from each county;" would it not then give the Legislature the full power and be better than it now is?

Mr. THURMAN. Some power has got to apportion them among the counties. That must be the Legislature.

Mr. CANNON. Would not the Legislature have that without saying, "from each county?"

Mr. THURMAN. Yes, that would cover it. That would give them the power.

Mr. CANNON. That is what I offer as an amendment, if the gentleman will accept that.

Mr. THURMAN. Yes, sir; strike out all of line 3 and the words "the State," in line 4.

The amendment was agreed to.

Mr. BOYER. Mr. President, I now move to amend this section by inserting between the words "duties" and "and,"

in line 4, the word "jurisdiction," and strike out all the remaining portion of the section after the word "compensation," in line 5.

Mr. THURMAN. Mr. President, I object to that, because we want to limit the power of the Legislature to extend the jurisdiction of justices of the peace. We do not want them ever to have the power to give justices any more jurisdiction than they have now. They may restrict it but not enlarge it.

The amendment of Mr. Boyer was withdrawn.

Mr. Evans, of Weber, offered the following substitute for the section:

The Legislature may provide for the election of justices of the peace in each county, city, and incorporated town in the State, and fix by law their powers and compensation. The jurisdiction of justices of the peace shall be as now provided by law, but the Legislature may restrict the same.

Mr. THORESON. Do you think it would be proper for the Legislature to fix the compensation of justices of the peace in cities?

Mr. EVANS (Weber). Why, it has the power to do that, only it can fix fees if it wants to, just as it does now. We are here creating courts. That is the only purpose of mentioning justices of the peace at all. We are creating that class of courts in pursuance of section 1 of this article.

Mr. THORESON. I understood your substitute for this section fixes the compensation or authorizes the Legislature to fix the compensation.

Mr. EVANS (Weber). It will do that, but of course the Legislature will have power over the cities. The city is only a creature of the State and it might delegate the power to the cities to do that.

The substitute of Mr. Evans, of Weber, was rejected.

Mr. RICHARDS. Mr. President, before passing section 8, I move that the word "but" be stricken out at the end of line 6, and the word "unless" inserted in lieu thereof, and the word "may"

stricken out in line 7, and the word "shall" inserted.

Mr. GOODWIN. Would you not change your word unless to "until?"

Mr. RICHARDS. I have no objection. It seems to me the way it stands now it is rather contradictory in terms.

Mr. THURMAN. Mr. President, I do not believe in splitting hairs. It seems to me that is what we are doing, but the word until implies that the Legislature will do it probably as soon as they get an opportunity. Now, that is not the meaning of it. It means that the jurisdiction shall remain as it now is. But if the Legislature ever chooses to do so, it may restrict it. Now, why is not "but" the proper word?

The amendment of Mr. Richards was rejected.

Section 9 was read.

Mr. RICHARDS. Mr. President, I move to insert after the word "court," in the third line, the following words: "Upon such conditions and under such regulations as may be prescribed by law." It seems to me that as the section now stands it might give an unqualified right of appeal without complying with the regulations in the way of filing bond, etc., as the Legislature might prescribe, and I think that it is proper that the Legislature should have power to prescribe certain conditions and regulations.

Mr. GOODWIN. I would ask Mr. Richards if his idea is that under this amendment a man could take an appeal without paying costs? If that is the case, I think the amendment good.

Mr. THURMAN. Mr. President, I have an amendment to cover the same ground and including something else with it. My motion is to strike out all of lines 2 and 3 down to the word alone, in line 3, and insert the following:

From all final judgments of the district court, there shall be a right of appeal to the supreme court, under such regulations as may be provided by law. In equity, the appeal may be on ques-

tions of law and fact. In cases at law, the appeal shall be on questions of law alone.

In the article as reported by the committee we provided that an appeal should be upon questions of law alone in all cases. The gentleman from Salt Lake, Mr. Varian, moved to strike out the same words that I now move to strike out.

Mr. VARIAN. They are stricken out.

Mr. THURMAN. He moved to strike out the words "on questions of law alone;" that prevailed. That left it that an appeal could lie upon both questions of law and fact in all cases from the district court. Now, I think he agrees with me that in equity cases that is right, but in law cases where the facts have been found by a jury, the supreme court ought not to have a right to review those facts except it be for purposes of determining the legal question involved.

Mr. EVANS (Weber). I want to ask Mr. Thurman a question, and also Mr. Varian. I am convinced that the way that reads, that in the supreme court you could take your witnesses and have a retrial before the supremecourt. I do not believe that either of the gentlemen intend that. It says upon both questions of law and fact, just as an appeal is taken from a justice's court to the district court, on both questions of law and fact, and there is no question but what a man could go into the supreme court with his witnesses and have another trial, and I do not believe that was ever intended by the mover.

Mr. VARIAN. I call the gentleman's attention to the fact that the all-important provision there is "under such regulations as may be provided by law." Now, of course, the statute as we have it now, if it is continued over, will regulate that. We must assume that the Legislature will regulate it.

Mr. EVANS (Weber). I think the words, "an appeal on questions of both law and fact," are well understood and

well defined by the courts. It means a retrial of the issue. Now, if they would say, "upon the record," or something of that kind, so that the supreme court may review the fact in equity cases, it would be all satisfactory, but we certainly do not want to get the idea here that a jury can be called in the supreme court and witnesses can be introduced there and have a trial of the entire issue, and I believe this is broad enough to cover that state of facts.

Mr. VARIAN. Let me call your attention to the fact that in another section the jurisdiction of the supreme court is limited to appellate jurisdiction. It does not mean original jurisdiction.

Mr. THURMAN. It does not mean a trial.

Mr. VARIAN. The general rule in regard to equity causes is that the evidence is taken by what we call depositions; that is, it is taken down in writing; witnesses are never called in equity cases, except in accordance with the code statute, and this means appellate jurisdiction. Whatever may be in the record of the court below would be taken to the court above.

Mr. EVANS (Weber). I would like to call the attention of the Convention again to this matter. I am satisfied it is a mistake. I do not believe that there is any gentleman but what would agree with me that an appeal from the justice's court to the district court would be a trial anew before a jury, and the recalling of the witnesses and a re-examination of all the facts. Now, the clause in that section relating to appeals from justices' courts to the district court reads as follows:

And also appeals shall lie from the final judgments of justices of the peace in civil and criminal cases, to the district court, upon both questions of law and fact.

Mr. VARIAN. What interpretation does the gentleman give the word appeal in this amendment? "The appeal

shall be," on certain questions. That is, the appeal shall be from questions of law and fact. It does not mean the original jurisdiction.

Mr. EVANS (Weber). "And appeals also shall lie from the justice's court to the district court upon both questions of law and fact." It is an appeal from the justice's court to the district court, just as it is an appeal from the district court to the supreme court, and if it is construed that a trial will be had anew in the district court, from the justice of the peace, then it would certainly be so in an equity case, because the language is identical. I would like to have that amended in some way so that it would be upon the record made in the district court.

Mr. THURMAN. Mr. President, I will accept an amendment proposed by the gentleman, an appeal on the record if there can be any sort of doubt about it. There is not any in my mind.

Mr. EVANS (Weber). Mr. President, I will offer an amendment to that after the word fact:

In equity cases the appeal may be on both questions of law and fact as made upon the record in the court below.

Mr. MALONEY. Does Mr. Thurman mean to cut off an appeal from orders after final judgment?

Mr. THURMAN. I think it is provided for lower down in the section.

Mr. MALONEY. I did not know whether I understood your amendment. I am in favor of leaving it to the Legislature. This may not work well and they may want to change it.

Mr. EICHNOR. Mr. President, I do not know how many amendments are before the house, but I am opposed to all amendments. The way it was amended the other day I think it is right.

Mr. EVANS (Weber). Mr. President, I desire to withdraw the amendment which I suggested. I am just like Mr. Eichnor. There is great danger in this section.

Mr. SQUIRES. Mr. President, I am waiting patiently for the lawyers to agree so I shall know how to vote on this proposition. I wish they would put their heads together and fix this thing up.

Mr. EVANS (Weber). Mr. President, I can get this matter before this Convention very readily. I move as an amendment that the words, "on questions of law alone," be inserted after the word court, in line 3.

Mr. CREER. The words that were stricken out the other day?

Mr. EVANS (Weber). The words that were stricken out the other day, on Mr. Varian's motion, that they may be reinstated.

Mr. VARIAN. Mr. President, I suggest as point of order, that amendment is not pertinent now. It is not an amendment to the amendment, and the amendment to the section covers those three lines. Mr. Thurman offers an amendment to those three lines as a substitute. Now, Mr. Evans comes in with an amendment to the three lines of the section. It is not an amendment to Mr. Thurman's amendment. Mr. Evans must wait, unless he chooses to amend Mr. Thurman's amendment, until we get through with that.

The PRESIDENT. The point of order is well taken.

Mr. EVANS (Weber). Then, Mr. President, as a part of my remarks, I want to state my reasons for voting down the amendments offered. I want to state right here in the beginning that this section was drawn—and I think that I will not be guilty of any breach of courtesy if I name the gentleman—by Judge Sutherland and other wise lawyers who assisted the committee in this matter of the jurisdiction of courts. It is a well established principle that appeals to the supreme court ought to be on questions of law alone. These words which were stricken out will work a great hardship on those people who are least able to stand it.

You let a supreme court have power to review the facts that a district court has had the right to review, and the chances are that the man who is least able to stand the reversals will have to bear the burden. Take it, gentlemen, in cases of railroad corporations, where an individual is injured by a company, and suppose a supreme court has the right to review the facts in that case; suppose a consideration of the facts were not conclusive by the trial court, where it sits and sees the witnesses and their conduct, their manner, and their deportment upon the witness stand, and is capable then and there of judging as to whether the witness is telling the truth or not—take all that away, take the cold record into the supreme court, and permit a review upon the facts, and injury will result to that very class of people who are least able to afford it. It is a well recognized and understood principle of law, that a trial court is the best judge of the facts, and if he tries the case correctly, sees the witnesses, and their conduct and deportment, and determines what the truth is, the facts ought to remain there, and the supreme court ought to have nothing to do except to review any mistakes or errors which might have occurred by reason of some question of law. Some gentlemen might say that the supreme court would not even have the right to examine into the evidence for the purpose of ascertaining whether the facts alone justified the verdict; but that is not true. If all the facts taken together do not as a matter of law justify the verdict, the supreme court will reverse the case. But this principle of permitting a supreme court that is far removed from the people, and from the witnesses, to determine upon a question of fact which it is the peculiar province of the trial court to determine, is wrong in principle, and ought not to be permitted in a constitution. And I affirm here now that even if the substitute offered by

Mr. Thurman be adopted, that there will be a retrial upon questions of fact in the supreme court. Every decision will so hold. Every court will so hold when it comes to construing it. As this is now drawn, it is in conformity with the constitutions that are usually written, it is in conformity with the statutes where the jurisdiction of the courts is defined, and this question here of a departure such as that which is now proposed, is dangerous in the extreme. We might as well abolish our territorial courts altogether, and just have a supreme court, who can review the facts—with judges that are far removed from the people, that are not so closely in touch with them as these trial judges who sit, and see and examine the evidence carefully, scrutinize the witnesses, know the impulses and environments, and all that—to take that away from those courts would be an outrage, a shame, and unprecedented. So that I say, that the words which were stricken out the other day ought to be reinserted and the section left just as it was reported by the committee.

Mr. VARIAN. Mr. President, it seems to me the gentleman is not using his usual discrimination. This is not a question of appeal to prejudice. It is not a question of railroad corporations, nor one of the trial of causes against them. I quite agree with him, and I think my friend Mr. Thurman quite agrees with him, that in law cases—that means all cases that under any circumstances can be tried by a jury—the determination of the question of fact ought to end with the trial court; but we have in our system a system of equity law which never has been and probably never will be subjected to the trial by jury. It is entirely distinct in every way. Until within a few years, in the states of the western coast and in New York, the evidence in that class of cases was never taken before the court in person, by the witnesses appearing in person. It was taken by deposition or in writ.

ing and it was passed upon by the trial court and the appellate court, questions of law arising in such cases being so necessarily connected and involved with the questions of fact, which, ever shifting and changing as they do, present new phases and questions of equity law. So that in the main you may say that an equity cause is always a question of law. Now, we quite agree with my friend, Mr. Evans, upon this question, and when these words were stricken out the other day, it was with the avowed purpose and the distinct understanding, as I remember it, that some substitute would be arranged for, to cover the ground, to be presented at this time. Mr. Thurman has presented that substitute for those words, making the distinction clearly between law cases and cases of equity. It is the distinction that is preserved in the Constitution of the United States, in the seventh amendment, which provides that in all cases of a trial by jury, the question shall not be reviewed in any other way except as at the common law. That is, by the trial courts. There the matter ends, just as my friend suggests, but that does not interfere with the equity system which prevails in the federal courts. It prevails, here for that matter. Now, all that is asked by this substitute is that it shall be made perfectly clear that the supreme court shall not be restricted of the jurisdiction that prevails everywhere, in every state in the Union and in the federal court, of reviewing questions of fact in equity causes, because they cannot review the questions of law without they review and decide the question of fact appearing upon the record. Nor, do I think that the fear and apprehension expressed by my friend that this language may or will be construed so as to give the supreme court original jurisdiction in those causes is well founded. It means just what it says. First, in a preceding section the court shall have appellate jurisdiction; second,

in the exercise of that appellate jurisdiction, it may not in questions of law review questions of fact; it may in equity causes review questions of fact as they are now reviewed and have been ever since the system of equity came into existence four or five hundred years ago. That is all, as I understand it, but if I am mistaken in the construction of my friend's amendment, he may correct me—

Mr. EVANS (Weber). Permit me to ask a question. If an appeal be allowed in an equity case, even upon questions of fact, would not the supreme court have the right to determine where the truth lies, where there is a conflict in the evidence?

Mr. VARIAN. Of course.

Mr. EVANS (Weber). That is to say, if one set of witnesses swear to one state of facts and another set of witnesses swear to another state of facts, you would not let the trial court determine which told the truth?

Mr. VARIAN. Precisely.

Mr. EVANS (Weber). You would permit the supreme court to review that conflict?

Mr. VARIAN. Certainly.

Mr. EVANS (Weber). Is there any authority for that anywhere under our American jurisprudence?

Mr. VARIAN. Mr. President, I am astounded at the question coming from the source that it does. I am actually astounded. The authority is everywhere. It began with the chancellors from the first in England. It is exercised to-day by the supreme court of the United States, and it is right that it should be. The system is complex. It is very different from the system at law. It is necessary that certain rules which are the fundamental landmarks in the administration of equity jurisprudence should be maintained, and in order to maintain them it is necessary in every case that the facts should be considered. It would be a monstrous proposition if you would confine that system as

you do the legal system, to the determination of the facts in each case, to the trial by jury, to that of the trial judge. You would have a different system in the administration of equity law in every district in the State. Now, that is not analogous at all to the trial by jury. In a case at law, when the facts are to be tried by a jury, they are clean cut; they only relate to questions of fact and are not connected in that sense with questions of law, and the jury find the facts—that is, the man did so or he did not do so; that is, the note was given or it was not given; that is, the fatal blow was stricken or it was not stricken; there was malice or there was not malice; and upon that finding as it shall be expressed, the judgment of the law is pronounced by the court. On all those questions I quite agree with the gentleman that there ought to be no review. It invades the right of trial by jury. But this is entirely a different question. We are discussing now a question of a different system, or at least a different part of the same system of jurisprudence. Equity and law go hand in hand, it is true, side by side; they are determined by different principles, determined in different ways and by different judges, and they ought to be.

Mr. EVANS (Weber). Mr. President, it may be contrary to the rules—I know this Convention has indulged me many times, probably more than it should, but I would like to make a few remarks respecting this question. No one else seems to want to speak. If any one does, I will yield at once. As I understand Mr. Varian now, he would permit the supreme court in an equity case to review a conflict in the evidence. I regret sincerely that he and I should differ so much with respect to the decisions of the supreme court of the United States upon that question, because I never heard it questioned before that the supreme court would not deal

with a direct conflict in the evidence, and the reason for it is this, gentlemen: As I stated before, but did not elaborate upon it, the trial court, in a case of equity, has as many conflicts in the evidence as it does in a case at law. He sees the witnesses, examines them carefully. Why, you know, sometimes a man may swear that black is white or white is black, but that does not make it so. The record may show the strongest kind of a case in favor of a client, when you read it coldly as written out, and yet a judge sitting upon the bench might read right in the face of that witness a lie in every word and sentence that he utters; and you would permit the supreme court, would you, to pass on that question, when it is without the necessary and essential means of determining the truth or falsity of the testimony? And another thing, if this principle be adopted, that an equity case can be reviewed upon a conflict in the evidence, then take for illustration one of those classes of cases which are familiar to you all. Take a water case among the farmers. One set of witnesses will swear that a certain quantity of water was appropriated at a certain time by a certain person. Another set of witnesses will swear that the appropriation was made prior to that time by the other party. There will be a direct conflict in the evidence. The trial judge in many cases goes out and examines the water ditches; he looks at the quantity of water flowing; he examines the premises. This is frequently the case in equity cases, not only in water cases, but also in mining cases. He goes down into the shaft, through drifts and stopes and levels, and examines everything to ascertain whether or no the witnesses have told the truth. Now, gentlemen, if this cold fact can be reviewed by the supreme court, the supreme court would not be likely to do these things. It would not examine the witnesses, it would not see their

deportment, probably would not examine the premises, or go into the mines and make an examination to ascertain what the fact is, but would take a conflict of evidence before it, and have the right to determine which set of witnesses told the truth and which swore falsely. I do affirm, that no such system of jurisprudence was ever inaugurated in any civilized government, English or American.

The rule is this, that the chancellor hears all the evidence; from that evidence he makes a finding of fact, which finding of fact may be reviewed by the supreme court, or all the evidence might be taken up with the finding of fact for the purpose of ascertaining whether the chancellor came to the correct conclusion or found the proper facts. And if the evidence shows that he did not find the proper facts, or if the facts do not justify the conclusion, then the supreme court, as a matter of law, reverses the chancellor and his case is retried, but not tried by the supreme court. It is returned to the chancellor again for a retrial where the witnesses can again be summoned and brought into court and examined as they were originally. But this system would simply overturn every foundation principle of American jurisprudence, to permit a supreme court, sitting away from the people and away from the witnesses, to determine what their motives and their promptings were at the time they gave their evidence. This section is right as it stands. It is in the interest of every honest litigant. It is in the interest of the people and in the interest of a good system of jurisprudence. Any other system would overturn that system, which has long since been established.

Mr. THURMAN. Mr. President, when the motion was made the other day to strike out these words, I was the only one who voted against it. I thought it very singular that it was so nearly unanimous, but my voice was so lone-

some when I voted that it almost frightened me. Now, I objected, and I went over it with the gentleman from Salt Lake, Mr. Varian, and told him I was dissatisfied with that action, that I did not want the supreme court to have the right to try questions of fact, particularly where they had been passed upon by a jury, and that the verdict of the jury should be final as to facts. He agreed with me that that was the case, but wanted it made applicable to equity, so you had a substitute which provides as it has been read, that the right of appeal is absolute in all cases, under such regulations as may be provided by law. In equity cases, it may be upon both questions of the law and fact. In cases at law it shall be upon questions of law alone. Now, there is an appeal allowed to-day for insufficiency of the evidence, whereby the supreme court can even review the facts passed upon by a jury, and in some cases say that the jury found wrongly. There they passed upon the facts, and I take it that that is what this means, that we do not want to permit the supreme court to pass upon even the sufficiency of the evidence. Because for the trial judge to say to a jury that they shall be the sole judges of the facts and the sufficiency of the evidence and the weight of it, and after they have decided it under those instructions, to have some other man or set of men review that and say that the jury decided wrong, is not to leave the facts with the jury, and for that reason we want it understood here that in cases at law where a jury passes upon the facts, there should be no review of the facts by the supreme court; but in cases of equity that it might continue just as it is to-day under existing law. Now, I will be frank, it may be my ignorance—if that means anything more than it does to-day, that the court may review the facts for the purpose of determining the sufficiency of the evidence, then I agree with the gentleman and

am not in favor of it, but I take it that that is all it means.

Mr. EVANS (Weber). I thank you for your kindly expressions on this matter. Mr. Varian thinks the supreme court would have the right to determine the fact where the evidence is conflicting, and I want to call your attention further to the fact that the section as you propose gives the supreme court the right to review the facts. If they have the right to review the facts, have not they the right to review a conflict in the evidence?

Mr. THURMAN. Now, they have a right to review the facts under such regulations as may be provided by law. That is a part of my amendment, and I say that it means more than simply fixing a bond and all that, but that it gives to the Legislature the right to regulate the appeal and the extent of it, and I think that it means exactly what our system is to-day. And in relation to these railroad companies and railroad cases, permit me to say this, that where a case is tried by the court alone (and equity cases are always tried by the court alone) it might be very convenient for the poor man to have some other court have a right to review the facts to some extent.

The question being taken on the amendment of Mr. Thurman, the Convention divided, and by a vote of 36 ayes to 29 noes, the amendment was agreed to.

Mr. EVANS (Weber). Mr. President, I change my vote to the affirmative for the purpose of moving a reconsideration.

Mr. VARIAN. I object. The gentleman cannot change his vote after the decision is announced.

Mr. EVANS (Weber). I cannot vote for this judicial article with that amendment in it, and will not.

Mr. VARIAN. Mr. President, I will say this, if after the section is passed the gentleman requests it, I will give notice of reconsideration myself.

The PRESIDENT. Will that be satisfactory?

Mr. EVANS (Weber). That will be very satisfactory indeed.

Mr. EICHNOR. Mr. President, I move to strike out section 9.

The motion was rejected.

Mr. RICHARDS. Mr. President, I move to strike out the word "an," at the end of line 3, section 9, and the word "appeal," in the beginning of line 4, be made to read "appeals."

The amendment was agreed to.

Sections 10, 11, 12, 13, 14, 15, 16, 17 and 18 were read.

Mr. EICHNOR. I would ask the chairman of the committee a question with regard to section 18. Many constitutions provide that all criminal prosecutions should be as against the peace and dignity of the state.

Mr. GOODWIN. That was put in and stricken out; I do not remember how. I believe it was on the ground that it did not amount to anything. That is something I am not at all particular about.

Sections 19 and 20 were read.

Mr. EVANS (Weber). Mr. President, I want to call attention to section 19, to show the consistency of the vote taken a while ago. There shall be but one form of civil action, and law and equity may be administered in the same action. You have a case of law and equity mixed. How would that be? Would the case be divisible for purposes of appeal.

Mr. VARIAN. Yes, it is, and has been so.

Mr. EVANS (Utah). Mr. President, I move to amend section 20 by striking out the words, "and mileage."

Mr. CREER. Mr. President, I have a substitute as follows:

Until otherwise provided by law, salaries of the supreme judges shall be three thousand dollars a year, paid quarterly, and that of the district judges twenty-five hundred dollars a year, paid quarterly, and their mileage.

The substitute was rejected.

Mr. EVANS (Utah). Mr. President, I want to amend section 20 by striking out "and mileage," in line 4, and inserting after the figures 3,000, in line 3, "including mileage."

Mr. GOODWIN. I want to ask the gentleman a question. In case the mileage should amount to thirty-five hundred dollars, how about the five hundred dollars?

Mr. EVANS (Utah). If his mileage amounted to three thousand dollars, perhaps the Legislature would do something for him, but I do not think it will. I have figured this thing up. I am going to talk on it a little while, if I am permitted. As I remarked the other day, I am opposed to this mileage system, in any way, shape, or form. I think it is very near akin to a fee system, and I think this Convention has decided—will carry into effect the fact that we propose to abolish the fee system. Whenever you have a mileage attached to the office of any individual, you never know what you have got to pay. I think that three thousand dollars is plenty. If it should be found necessary in the Legislature that some incidental expenses ought to be paid after this has had a fair trial, then they would have the right and power to do it, but in every event, or in any event, I believe that three thousand dollars is all this State ought to pay to our judges. I came here fixed in my mind that twenty-five hundred dollars would be sufficient to pay them, and if this shall fail I want to give notice now that I shall move to amend by making it twenty-five hundred dollars, and I shall have strong support in this Convention.

Mr. CRANE. I would like to ask the gentleman if he considers it right and just that the judges of the district court in Salt Lake County should receive three thousand dollars, and they have no mileage of course, and the judges in the 7th, 5th, or 4th district, who have to travel eight or nine miles, or three

thousand miles as one of them has to do, should receive only three thousand dollars, and that he should be compelled to pay his own mileage out of his salary?

Mr. EVANS (Utah). Yes, sir, I do. I think it is right. I submit to you, gentlemen of the Convention, that if we shall confine it to localities upon the principle that the gentleman has indicated, that Salt Lake City will turn into the treasury five times as much from fees as will these other districts. I submit to you that the cost of living will be much cheaper in these outlying counties than it is in Salt Lake City. I heard it remarked by a gentleman in speaking on this question, and I believe there is a great deal of truth in it, in delivering a lecture, he said that the judges and attorneys live entirely too high. He says, "They have a good time, spend lots of money and die young." And I am in favor of cutting their salaries down a little so that they will live not quite so high and by reason of that they will live a little longer and not have so many widows and orphans in our midst, and I am in favor of this being three thousand dollars, and no discrimination against Salt Lake City or anywhere else. We are arguing this question now upon a principle of fixing the salaries as Idaho has done, at three thousand dollars. Let that cover everything. It will make them more judicious in the expenditure of their means in traveling. I presume the longest travel will be from Juab down to Saint George, and upon the actual traveling expenses, computed at ten cents a mile, if they shall make twelve trips it will only be six hundred, and that will leave a salary of twenty-four hundred dollars, but as we have provided, they shall only be required to go four times, and consequently it would reduce that amount and leave that about twenty-seven or eight hundred dollars, and I say that is plenty. This Convention cannot go upon record for

any greater salaries than three thousand dollars including everything, and I shall cast my vote and I want to go upon the record for that.

Mr. CRANE. Mr. President, I have an amendment that I desire to offer that I think will meet the requirements of this case: Insert after the words "payable quarterly" the words, "and the necessary traveling expenses incurred in reaching the several counties in their respective judicial districts."

Mr. IVINS. Mr. President, I am more opposed to this latter amendment than I was to the amendment offered by the gentleman from Utah, from the fact that it provides that the necessary traveling expenses would be paid without defining anything about what those traveling expenses shall be. And we know how easy it is for men to create large bills for traveling expenses. My opinion is that the section just as we amended it in committee of the whole is the proper thing, and that we ought to pay these men their regular salaries and mileage. They cannot deceive the State, because the map will show plainly the number of miles they have traveled. They cannot report that they have traveled five hundred miles when they have only traveled two. But it is a very easy matter for a man to build up an expense account when there is no rule by which he is governed. This idea of living being cheaper outside than it is in Salt Lake is all wrong. It costs a man just as much to get a meal in Saint George as it does in Salt Lake. There is no article in the market, unless some peculiar product of that country, that cannot be bought for less here than in Washington County, from flour to beef steak, and I say that it is proper that these judges should be paid three thousand dollars, and they ought to have their mileage, and then let them spend just as much money for incidental expenses as they wish while they are traveling. It will be their own.

Mr. GOODWIN. Mr. President, the idea of mileage was that the actual money paid out in traveling should be returned to the judge. Under the arrangement proposed by Mr. Crane, a man will have to be on the road all the time. He would be away from home continuously. It would be all right if I knew that a Salt Lake judge or attorney would be elected to those long stretches, but the chances are that it would be some man from the lower country, where they are not so scrupulous as Salt Lake attorneys, and the bill would be simply unapproachable. I think the section ought to stand. It is splitting hairs to say that a man would travel hundreds of miles in stages or on a mustang or in a buggy, to get mileage. He gets his punishment. He will earn all that he gets.

The amendment of Mr. Crane was rejected.

Mr. EVANS (Utah). Mr. President, I ask for the ayes and noes on my amendment.

Mr. CRANE. Mr. President, I trust this amendment will not pass. I do not believe that it is right that a man, because he is a judge of a district court, three or four or five hundred miles from the city of Salt Lake, should have his salary reduced lower than that of the judge in Salt Lake. He may be just as good a judge. He may be just as learned in the law, and he has to travel hundreds, and in one district, I find three thousand miles during the year. He has to withstand a great deal of hardship, the burning alkali dust of summer, and the blasting storms of winter, and I do not believe that it is right and just that he should be compelled to pay his salary of three thousand dollars or any portion of it for traveling expenses, or that his salary should be reduced in any particular lower than that of the judges of Salt Lake City who have a good office, and no office rent to pay, have library facilities that the judges in the outlying counties

have not; they cannot carry any freight when they go in a buckboard or in their own conveyances, which they will have in going from Summit to Uintah, and I do not believe it is right and just to those judges that they should be compelled to work for a less salary than the judges in Salt Lake, who have all the comforts of home around them.

Mr. CREER. Do the judges in the neighboring states—Idaho, for instance, and Wyoming, get mileage?

Mr. CRANE. I do not know anything about Idaho. I am only speaking of the judges who live outside of this city, who are perhaps just as learned in the law as they are in this city.

Mr. CREER. I wish to say that they have the same duties to perform as these judges will have, yet they receive no mileage.

Mr. CRANE. Mr. President, I will say that Idaho is an entirely different state from Utah, that the traveling is not half as much. The precincts and the districts are not half as large as they are here, and the facilities for traveling are much better than they are here.

Mr. IVINS. I want to say furthermore that Idaho does not have this system. She has the probate system of courts, and the judge does not have to travel as long distances.

Mr. BARNES. Mr. President, I will say that I agree exactly with Mr. Crane. I think in the matter of compensation and fixing of salaries, we should try to be just, and I cannot think it is just to ask a man who is traveling, as has been described by Mr. Crane, to pay his own expenses out of the salary, when whoever may be appointed to sit in Salt Lake City can do so without any expense. It must be evident, I think, to all classes that it must be very much more pleasant and agreeable to sit in a comfortable office here in Salt Lake City, than it would be to travel through those mountain gorges or over the dusty roads, as the

case may be. I know it would be, and I think it is manifestly unjust to ask a judge in the outlying counties to thus travel and pay his own expenses out of the salaries of office.

Mr. FARR. Mr. President, I could not do myself justice, nor justice to the person that got up this motion to exempt expenses of mileage from this, without saying something. It comes so near to my proposition of two thousand dollars a year, I think it is nothing more than due that I should get up and support the gentleman that has made this motion, and I certainly shall support the motion that the mileage be exempted from this section. I am satisfied from the dense population here in Salt Lake City, that they will have about twice or three times the time to spend in court to what they will have in these outside counties, and the time will be taken up, and they can well afford to pay the extra mileage to what the judges do in this city, and I think it will make it about equal to what it would be to be confined here in this city and attend the great number of courts they will have. Consequently, I will support the motion.

Mr. HAMMOND. Mr. President, I am opposed to the amendment and in favor of the section as we left it at our other discussion. As I have observed, if altered at all, I would favor an increase. Now, sir, as you may know personally, I traveled that country for the last ten years and have worn out five buggies. The last one you helped bust out yourself. [Laughter.]

The PRESIDENT. I did not intend to do that.

Mr. HAMMOND. It is a hard country on buggies and teams and men. Our judges that are worthy of being judges of counties like San Juan should certainly have their mileage added to their salaries. I have no idea of their cheating us, as has been observed here. The routes—the county roads and cow trails, as some one has observed here

before, are well known, and there is no possibility of their cheating us at all, and I am in favor of leaving the section as it stands.

Mr. KIMBALL (Weber). Mr. President, I should oppose the motion of the gentleman. My experience for a number of years in travelling through this Territory has demonstrated the fact that it costs on an average of five dollars a day to travel. Now, if we take this from the judges' salary of eight, and include some incidental expenses, it would figure him down to a bare living, and I certainly oppose it, but I would support the proposition of a less amount including mileage.

Mr. VAN HORNE. I would like to ask the gentleman from Utah what the use is of putting in the words, "including mileage?"

Mr. EVANS (Utah). My object is that if we shall do that we will indicate to the Legislature that we do not want any mileage paid, and if we just leave the mileage off perhaps they will go and give it.

Mr. MURDOCK (Wasatch). Mr. President, I trust the motion to strike out mileage will not prevail. Undoubtedly those who are in the outside counties realize the fact that they need as competent judges to sit in cases where they are interested, as those do who live in cities and places where the judges will not have to travel, and to cause them to pay their mileage, or to pay it out of their salary, would indicate a cheaper judge for the outside districts. I certainly contend that we want just as good a judge for the outside counties as the people have that dwell in the more thickly settled counties; and further, it appears to me that if we compel them to pay their own mileage, they will not come to see us very often. I venture to say they will not make more than four trips in any outside county if they have to pay the expenses of those trips, and, as has been stated, there may be cases in which their services are much needed,

but if they are under the obligation of paying the expenses to go to those counties, I am inclined to think they will not go oftener than is provided by law, and I trust that no delegate from an outside county will vote in favor of them paying their mileage, for I believe if he does he will be voting against his own interests and against the interests of his county. I do not know that I blame those that live in counties where the judge does not have to travel and where probably he will reside, for being opposed to mileage. They will keep the judge at home all the time and will have his services right at hand.

The roll was then called on the amendment offered by Mr. Evans, of Utah, with the following result:

AYES—24.

Boyer	Lowe, Peter
Brandley	Low, Cache
Chidester	McFarland
Coray	Peters
Creer	Raleigh
Cunningham	Ricks
Evans, Weber	Robertson
Evans, Utah	Robison, Wayne
Farr	Stover
Halliday	Thompson
Lemmon	Thoreson
Lowe, Wm.	Thorne.

NOES—65.

Allen	Kerr
Anderson	Kimball, Salt Lake
Barnes	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lund
Buys	Maeser
Call	Maloney
Cannon	Maughan
Christiansen	Miller
Clark	Morris
Corfman	Moritz
Crane	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker
Eldredge	Page
Emery	Peterson, Grand
Engberg	Peterson, Sanpete

Francis	Pierce
Gibbs	Richards
Goodwin	Roberts
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Spencer
Heybourne	Squires
Hill	Strevell
Howard	Thatcher
Hyde	Thurman
Ivins	Van Horne
James	Warrum
Jolley	Wells
Keith	Williams.
Kearns	

ABSENT—15.

Adams	Partridge
Cushing	Preston
Hughes	Robinson, Kane
Kiesel	Snow
Kimball, Weber	Symons
Lewis	Varian
Mackintosh	Whitney.
Murdock, Beaver	

PAIRED—2.

Johnson	Lambert.
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The president declared the amendment lost.

Mr. ALLEN. Mr. President, I want to explain my vote. Inasmuch as Mr. Evans has given notice that he will move for twenty-five hundred, I will vote no.

Mr. CREER. Mr. President, just because the Convention did not make it twenty-five hundred dollars I vote aye on this.

Mr. JOLLEY. Mr. President, my opinion is that we have got these salaries five hundred dollars too high, but I do not believe that there should be any distinction made in the judges wherever they may be. Therefore, I vote no.

Mr. EVANS (Utah). Mr. President, I move that three thousand be stricken out and that twenty-five hundred be inserted.

The roll being called on the motion, the result was as follows:

AYES—38.

Allen	Larsen, L.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Call	Low, Cache
Chidester	Maloney
Coray	McFarland
Creer	Miller
Cunningham	Morris
Engberg	Peters
Evans, Weber	Peterson, Sanpete
Evans, Utah	Raleigh
Farr	Ricks
Gibbs	Robertson
Halliday	Robison, Wayne
Heybourne	Snow
Howard	Thompson
Jolley	Thoreson
Kimball, Salt Lake	Thorne.

NOES—51.

Anderson	Larsen, C. P.
Bowdle	Lund
Button	Maeser
Buys	Maughan
Cannon	Moritz
Christiansen	Murdock, Wasatch
Clark	Murdock, Summit
Corfman	Nebeker
Crane	Page
Driver	Peterson, Grand
Eichnor	Pierce
Eldredge	Richards
Emery	Roberts
Francis	Ryan
Goodwin	Sharp
Green	Shurtliff
Hammond	Spencer
Hart	Squires
Haynes	Stover
Hill	Thatcher
Hyde	Thurman
Ivins	Van Horne
James	Warrum
Keith	Wells
Kearns	Williams.
Kerr	

ABSENT—15.

Adams	Partridge
Cushing	Preston

Hughes	Robinson, Kane
Kiesel	Strevel
Kimball, Weber	Symons
Lewis	Varian
Mackintosh	Whitney.
Murdock, Beaver	

PAIRED—2.

Johnson	Lambert.
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The president declared the motion lost.

Sections 21, 22, 23, 24 and 25 were read.

Mr. RICHARDS. Mr. President, I move that all of line 3 and all of line 4, except the last two words, be stricken out.

Mr. CRANE. That amendment has already been passed.

Mr. RICHARDS. I thought so, but if there is any doubt about it, I move it be done now.

Mr. EVANS (Weber). I move as an amendment, Mr. President, to the motion, to strike out the entire section 25. I do not do this for any affront to the honorable chairman of the committee. Of course he understands that, but it is wholly unnecessary for any purpose whatever. There is nothing in it that is so essential that it shall be made constitutional. It simply provides that the supreme court shall pass upon all the points fairly arising, and if a judge dissents he shall give his reasons in writing. These are things that are always done by every supreme court. It seems to me to be wholly unnecessary and I therefore move to strike it out.

Mr. RICHARDS. I think it should be made definitely the duty of the judges of the supreme court to make their opinions in writing and file them. Of course it is the general practice, but still it ought to be expressly stated.

Mr. MALONEY. Mr. President, this is a provision in several of the constitutions of the United States. It was put in at the special request of a number of members of the Salt Lake bar. I do not think a court ought to decide a case without considering fairly all the

points in the case. I shall support it as reported by the committee.

Mr. RICHARDS. My recollection is that a motion similar to this prevailed. There did not seem to be any opposition at that time to this proposition. I desire to say this: Suppose a case is taken up and there are a half a dozen or a dozen different points raised in the case and one point is decisive of the case, why should the supreme court be required to go on and write an opinion upon the eleven other points that are raised in the case when one point decides it? It is unusual. It seems to me to be not only unnecessary, but undesirable that this thing should be done. The supreme court of the United States, when they consider a case and conclude to decide it upon any one point, if that point is decisive of the case, it decides it upon that point and says it is not necessary to consider other points, and so with other courts.

Mr. BOWDLE. Mr. President, I am not in favor of striking that out. The idea, I take it, for putting it in here is this: There is a case comes up to the supreme court; there is one point that would decide the case, but there is another point that is equally decisive, and a third that would be equally decisive. Now, the court, we will say, decides on this point, leaves the other two points yet to be litigated, and the idea, as I take it, that prompted that suggestion was that very thing, that when the points are properly before the court, to save litigation they should decide that question. Now, that is the gentleman from Weber's suggestion.

Mr. MALONEY. Yes, that is it. Then, also, the trial judge may have the suggestion from the supreme court.

Mr. EVANS (Weber). Mr. President, I agree with all these things and agree that it is purely for the Legislature to deal with. Why put in this little trivial matter in the Constitution. Our laws already provide for it practically, and they will be continued in force by the

schedule, and if any abuses of this kind arise the future Legislatures can easily deal with it, and there is no use encumbering the Constitution with it at all.

Mr. MALONEY. Where is the law already in existence that covers this point?

Mr. EVANS (Weber). Covers the objection of Mr. Richards that the supreme court shall render its decision in writing, that is all. They always do that.

Mr. EICHNOR. Mr. President, I hope the amendment of Mr. Richards will prevail. One of the first law cases I ever read, appealed to the supreme court of the state of Pennsylvania, was taken up by the silver-tongued orator, Daniel Dunn, and he had seventeen points to be decided upon, and the first point decided the case. Why should the supreme court of that state, or any other state, if an attorney would appeal a case and raise seventeen points when the first point or second point or third point decided the case, burden the record with dwelling on sixteen other points which could not change the decision?

Mr. EVANS (Weber). Isn't it true that lawyers get up twenty or thirty or forty or fifty assignments many times, and it would require the court to pass upon all of them?

Mr. EICHNOR. Correct.

Mr. EVANS (Weber). It would make a decision that nobody would want to read.

Mr. THURMAN. I believe I can answer the question as to why it is wise to do this; it will save litigation in the future. If a dozen questions fairly arise upon the face of the record and the attorney appealing the case relies upon each one of them and sends them up, and the supreme court decides every one of them, whether they are necessary or not, there is no man that will ever appeal on any one of those questions again, because the supreme court has made it the settled law of the land. It

is in the interests, I think, of decreasing litigation. That was the object of the committee. It is not an unusual thing. There are a good many of the states requiring that thing in their constitutions to-day. I am not very particular about it so far as I am concerned, but to say that there is no reason for it—there is reason.

The amendment of Mr. Richards was rejected.

The motion of Mr. Evans, of Weber, was rejected.

Sections 26 and 27 were read.

Mr. EICHNOR. I offer a substitute for section 27, as follows:

Any judicial officer who shall absent himself from the State or district for more than sixty consecutive days shall be deemed to have forfeited his office; provided, that in cases of extreme necessity, the governor may extend the leave of absence to such time as the necessity therefor shall exist.

I desire to explain the difference between the original section 27 and the substitute I propose. In the substitute, if the officer absents himself from the State or district for sixty days, he forfeits his office, but the governor, in cases of extreme necessity, may extend the leave of absence. For instance, the judge would be required to go to another climate for his health, and he could not return in sixty days or ninety days, as the original section provides, the governor could extend the leave of absence.

Mr. THATCHER. Should not we place some limit of time—say four months or six months?

Mr. EICHNOR. It is discretionary with the governor.

Mr. SQUIRES. Mr. President, I notice a difference of thirty days between these two propositions. Mr. Varian's first motion was to make it sixty days, and that was amended at the request of some of the lawyers present here to ninety days. Now, the substitute comes in and restores the old time,

sixty days. I move to strike out sixty from that substitute and insert ninety.

Mr. EICHNOR. I will accept that.

Mr. GOODWIN. Mr. President, I do not want to say anything except that the public deserves something. If a judge is incapacitated by illness more than ninety days that is his misfortune.

The substitute of Mr. Eichnor was agreed to.

Mr. THATCHER. Mr. President, before we vote on this as a whole—in section 12, I would like to ask whether the letter “a,” in line 2, before the word compensation, is stricken out or not? I move to strike out the letter “a.”

The amendment was agreed to.

Mr. THATCHER. Mr. President, I shall now move to strike out entirely section 24, and if that does not prevail, I shall move for the insertion of a word giving the Legislature power to limit as well as extend; on the third line, inserting the words “or limit.” I think it is well enough fixed at four and six years.

Mr. VAN HORNE. Mr. President, I hope that that will not be done hastily. The committee considered very carefully the term of the judges and fixed upon the term, and they thought that the Legislature might consider it desirable to extend the term, but in no instance would it be for the good of the people to have the Legislature limit it.

The amendment was rejected.

The motion to strike out was rejected.

Mr. EVANS (Weber). Mr. President, I hold in my hand a motion to reconsider section 9, which is made by Mr. Varian. He asked me to present it in his absence.

The same was read as follows: “Mr. Varian moves to reconsider the vote by which the amendment by Mr. Thurman to section 9 was carried.”

Mr. SQUIRES. Mr. President, I understood Mr. Varian to say that after this article had been adopted he would file that motion to reconsider.

Mr. THURMAN. Yes.

Mr. EVANS (Weber). No, that is not it at all. We will have another seance just like we had to-day on the election article, because all he moves to reconsider is section 9.

Mr. CORAY. I desire to ask, did not the vote we took this morning decide that a section could not be reconsidered after the final vote?

Mr. SQUIRES. Not if the motion to reconsider is made at the proper time. This morning we were trying to suspend the rules to reconsider. It is a different proposition.

Mr. THURMAN. Mr. President, I have seconded this motion to reconsider, but I would like to look the question up a little this evening.

Mr. RICHARDS. Would it not be as well to withdraw this motion for the time being, in the absence of Mr. Varian, and let the matter be continued until it can be further investigated? Will Mr. Evans withdraw the motion for the time being?

Mr. EVANS (Weber). Certainly.

Mr. RICHARDS. Then I desire to submit an amendment to section 26, after the word “of,” in the section line, to insert the word “all,” so that if we are going to have these judges decide all these different points in the record, then I desire the syllabus shall show them all.

Mr. EICHNOR. Would not that make a very large syllabus to each case?

Mr. THURMAN. Does it not mean that now?

Mr. RICHARDS. I think that means that now, by a fair construction, but the supreme court will interpret this Constitution, and I want to put it in such a position that if the point is decided in the opinion it will appear in the syllabus, and that is certainly to the interest of every person who has to refer those decisions.

The amendment was agreed to.

Mr. RICHARDS. Mr. President, I move we adjourn.

Mr. GOODWIN. Mr. President, I move to adjourn until to-morrow morning.

Mr. CHIDESTER. I arise to a point of order. The time is fixed.

Mr. MALONEY. Mr. President, I move to reconsider the action of this morning that we take a recess until 7:30 this evening.

Mr. RICKS. Mr. President, I desire to submit a report.

The committee on schedule, future amendments and miscellaneous, reported an article on schedule, which was ordered printed and referred to the committee of the whole.

The motion of Mr. Maloney was agreed to.

Mr. KEARNS. Mr. President, I move that when we adjourn, we adjourn until 9 o'clock to-morrow morning.

Mr. EVANS (Utah). Mr. President, I move as an amendment that we take a recess until 7:30 o'clock this evening.

The amendment was rejected.

The motion was agreed to.

The committee on salaries of public officers reported as follows:

Committee Room,
April 25th, 1895.

MR. PRESIDENT:

Your committee on salaries of public officers herewith report an article entitled salaries, and recommend its insertion in the Constitution.

Files No. 8 and 133, which were referred to the committee, are herewith returned.

R. MACKINTOSH,
Chairman.

Mr. CHIDESTER. Yeas and nays on the judiciary article.

The PRESIDENT. Mr. Varian is absent. If there is a proposition to amend section 9, it seems to me—

Mr. CHIDESTER. I object to waiting on any man that sends in an amendment in that way. Now, in my opinion it is his business to be in attendance on this Convention, and I notice that several times men have re-

mained away from the Convention until important measures have been nearly settled and then have come in and endeavored to turn upside down everything that has been done during the day, and I think it is not fair; it is not treating the Convention fairly, and we have time enough now to finish this up and I think we should do it.

Mr. EVANS (Weber). Mr. President, I just want to say on this question of reconsideration—the motion is now made to reconsider section 9, and has been seconded. All I shall contend for is that if the motion to reconsider be carried, I shall want the section as reported by the committee. It was carefully and intelligently drawn. It is a matter of safety that we should leave it as it was. I do believe, as I stated to you before, that the article as now amended is in a very dangerous condition.

Mr. THURMAN. Mr. President, I am not going to contend over this matter any longer. I shall withdraw my substitute unless the house objects.

Mr. SQUIRES. It has already passed.

Mr. RICHARDS. Mr. President, I submit when the gentleman who offers the substitute states here that he will withdraw it, we certainly ought to vote for a reconsideration.

Mr. ANDERSON. Mr. President, I hope that we will reconsider this question. I think if there is any doubt that this is ambiguous, or is liable to two constructions, it should be changed.

Mr. THURMAN. Mr. President, I want to be understood on this floor. As far as I am concerned, I do not have any doubt about the substance. I think I know what it means; but in the first, I was in favor of this as it now reads in section 9 in the printed article. I alone voted against the striking of it out in this house.

Mr. EVANS (Weber). I voted with you.

Mr. THURMAN. I feel, so far as I am concerned, that there is no doubt about

it, but I am in favor of the section as it stands there. When Mr. Varian succeeded in getting that language struck out of this article, as a compromise I offered a substitute. Now, if Mr. Varian, himself, wants to reconsider this whole matter, I withdraw my substitute and let the section stand—it won't stand, but the words may be reinserted without any opposition as far as I am concerned.

Mr. MALONEY. Mr. President, this Convention passed upon that deliberately. I do not think Mr. Thurman has the right to withdraw his substitute when we passed on it.

Mr. THURMAN. Well, I say as far as I am concerned.

Mr. MALONEY. I think it should be left the way it is.

The question being taken on the motion to reconsider, the Convention divided, and by a vote of 34 ayes to 36 noes, the motion was rejected.

Mr. CANNON. Before the roll call is had, I desire to ask the chairman of the committee on judiciary a question—whether the construction placed upon section 1 the other night is correct, where the language is used “and such other courts, inferior to the supreme court, as may be established by law,” and if there any question but that the Legislature could establish the probate courts, if they saw fit so to do?

Mr. GOODWIN. There is not, unless the probate court is higher than the supreme court.

Mr. CANNON. Could they in any way reduce the number of district courts, or would that require constitutional amendment?

Mr. GOODWIN. They cannot reduce the number of district courts.

Roll call on adoption of the proposed article on judiciary, as amended, resulted as follows:

AYES—83.

Anderson	Larsen, L.
Bowdle	Lemmon

Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Button	Lund
Buys	Maeser
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robison, Wayne
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hyde	Thatcher
Ivins	Thompson
James	Thoreson
Jolley	Thorne
Keith	Thurman
Kearns	Van Horne
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Williams.
Lambert	

NOES—4.

Allen	Low, Cache
Evans, Weber	Raleigh.

ABSENT—19.

Adams	Mackintosh
Barnes	Murdock, Beaver
Cushing	Partridge
Driver	Preston
Haynes	Robison, Kane
Hughes	Strevell

Johnson	Symons
Kiesel	Varian
Larsen, C. P.	Whitney.
Lewis	

During the roll call the following explanations and statements were made:

Mr. EICHNOR. I vote aye, but I express my disapproval of section 9 most emphatically.

Mr. EVANS (Weber). The committee have taken great pride in the formation of the judiciary article. I have sincerely hoped that it would so stand that I could vote for it. Section 9 is so fraught with mischief that I cannot vote for the article at all and I must cast my vote no.

Mr. EVANS (Utah). I want to say that I disapprove of sections 9 and 20, but I shall cast my vote aye.

Mr. HAMMOND. I am satisfied with all the sections except section 5. I shall vote aye on the article. I wanted all these officers to be married men.

Mr. RICHARDS. I vote aye on this article, but I express my disapprobation of the article, in so far as it does not provide for probate courts, and I am not satisfied with section 9.

Mr. SNOW. I vote aye, but like Mr. Richards, I disapprove of not incorporating probate courts.

Mr. CREER. I am not satisfied with section 20, but I vote aye on the article.

The PRESIDENT. The article has been adopted and will go to the committee on compilation.

Mr. THURMAN. Mr. President, I give notice now that I will move to reconsider this article for the sake only of reaching section 9, if I find that I am mistaken in the law. I do not want to be responsible for any mistake. I tried a while ago to get the matter over.

Mr. PIERCE. Mr. President, I move you that we do now adopt the recommendation of the committee of the whole upon the article of mines and mining.

Mr. EVANS (Utah). Mr. President, I do not understand there is anything

to adopt. The article was stricken out in toto.

Mr. ANDERSON. Mr. President, I hope this motion will not prevail. I hope it will be voted down. I have two or three sections here which I wish to offer if this is voted down. Irrigation, agriculture, and mining are the chief industries of our State, and we have scarcely anything about them in our Constitution. I have some sections which I think it is necessary to incorporate. I hope this motion will be voted down.

Mr. EVANS (Weber). Mr. President, I believe it is desirable that there should be something said in the Constitution about mining. The committee of the whole struck everything out. Now, if the report of the committee of the whole be not adopted, why, then that of course will bring up the article on mining for a third reading. I simply wanted to say that much so that the Convention would understand that if the report of the committee be voted down, then the article on mining is before the Convention for the third reading.

The motion of Mr. Pierce was rejected.

Mr. RICKS. Mr. President, I understand now that the report of the committee is before this Convention just as it was in the beginning, with three sections.

The PRESIDENT. That is correct.

Mr. EVANS (Weber). Mr. President, I move that the article on mines and mining be made a special order for tomorrow morning.

Sections 1, 2, and 3 of the article were read.

Mr. KEARNS. Mr. President, I want to offer a substitute for section 3, taken from the Idaho bill of rights, as follows:

Section 3. The necessary use of lands for the construction of reservoirs, or storage basins, for the purposes of irrigation, or for rights of way, for the construction of canals, ditches, flumes,

or pipes, to convey water to the place of use; for any useful, beneficial, or necessary purpose, or for drainage; or for the drainage of mines or the working thereof, by means of roads, railroads, tramways, cuts, tunnels, shafts, hoisting works, dumps, or other necessary means to their complete development, or any other use necessary to the complete development of the material resources of the State, or the preservation of the health of its inhabitants, is hereby declared to be a public use, and subject to the regulation and control of the State.

The substitute was adopted.

Mr. RICKS. Mr. President, I move that the section just adopted be stricken out.

Mr. HART. Mr. President, I arise to a point of order. It is not proper.

The PRESIDENT. Roll call on the article.

Mr. BOWDLE. What are you calling the roll upon?

The PRESIDENT. On the whole article.

Mr. RICKS. Mr. President, this question has been discussed by this Convention probably more than any other, except the woman's suffrage question, and on four or five different occasions we have voted—

Mr. KIMBALL (Weber). I arise to a point of order. The roll call had been started, and any discussion now is out of place.

The PRESIDENT. The point of order is well taken.

Mr. RICHARDS. Mr. President, I ask unanimous consent to call attention to one thing in section 2. It seems to me that this cannot be as I understand it. It can hardly be intended by this Convention that the Legislature shall provide by law for enforcing safe development and ventilation. I understand that the Legislature has power to enforce the development of all coal claims. I submit if a man has a patent to coal lands, is it right that the State should enforce the development of them? I submit we are passing something

hastily that we do not appreciate the force of. That is what this means.

Mr. SHARP. This says, coal mines operated in this State; that means that if they are mines that are being operated—

Mr. THURMAN. I would like to ask that this vote be postponed until tomorrow morning.

Mr. JAMES. Mr. President, I sanction the gentleman's request.

Mr. RICHARDS. It is going too fast, that is the trouble.

Mr. WILLIAMS. It is going too far. It is building hoisting works, building dumps upon public land, etc., that we have not had time to consider, and it has no business here.

Mr. KIMBALL (Weber). I arise to a point of order.

The PRESIDENT. The secretary will proceed with the calling of the roll.

The roll was then called on the adoption of the article, but was interrupted by the following:

Mr. CANNON. Mr. President, I decline to vote, for the reason that I have no time in which to consider this substitute which was offered. The president did not state the question and ask for remarks, and no time was given in which remarks could be made or any amendment offered.

The PRESIDENT. The gentleman must vote either aye or no.

Mr. CANNON. I will vote no.

Mr. CHRISTIANSEN. I decline on the same grounds.

The PRESIDENT. The gentleman must vote either aye or no.

Mr. EVANS (Weber). Mr. President, I ask unanimous consent that the matter lay over.

Mr. BOWDLE. No, I object.

Mr. IVINS. Now, Mr. President, I want to arise to a point of order. This last section, that it is designed to add to this bill, and which I hurriedly endorsed, was read, and the roll call was demanded before a member had a chance to get on his feet, and the clerk called

one or two names. Now, I claim that that is contrary to all rules of order, to pass an important matter of that kind before a man can get on his feet to offer an amendment to it or make a remark, and consequently, I believe that the calling of the roll is out of order until an opportunity has been had to amend this section if members wish to do it.

Mr. JAMES. Let it go on and vote it down.

Mr. IVINS. I do not want to vote it down.

Mr. HART. Mr. President, I believe it is the sense of this Convention that that section should be passed, but I am in favor of giving members time to consider it. This thing of having crowded down their throats—while I would like to see the particular section passed, I do not believe in seeing it passed in this way. I would like to see that thing go over until to-morrow morning.

The PRESIDENT. The secretary will proceed with the calling of the roll.

Mr. RICHARDS. I desire to supplement to the suggestion made a request that the third section be printed. I submit that the gentlemen of this Convention do not know what they are voting on. I do not know. I have heard that section read once, but no man can from hearing it read once appreciate the importance of it, and understand intelligently what he is voting on, and I do protest against being compelled to vote on something that I don't understand and have not had an opportunity to inform myself upon.

Mr. HART. Mr. President, I move we adjourn.

Mr. SQUIRES. I am going to make an appeal to the gentlemen of the Convention. If there are any men here who are the friends of the mining interests of this Territory and who are the friends of the agricultural interests of this Territory, I say to them, you do not want to put anything into this Constitution that will be hurtful. Now there can no

harm come to either one of those interests by deferring this until to-morrow morning. Give everybody time to look at it and then they will come here to-morrow morning to vote for it intelligently. I ask unanimous consent in view of these things.

The Convention then adjourned.

FIFTY-FOURTH DAY.

FRIDAY, April 26, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Raleigh of Salt Lake.

Journal of the fifty-third day's session was read and approved.

Communication from N. W. Clayton, manager of the Salt Lake and Los Angeles Ry. Co., inviting the members of the Convention to an excursion to Saltair Beach, was read.

Mr. Ricks moved the invitation be accepted with thanks, and 2 p. m. Sunday next be the hour fixed for the excursion.

Mr. Heybourne moved as an amendment that the hour of 4 p. m. to-morrow (Saturday) be the time fixed for the excursion.

Mr. Evans, of Utah, moved as an amendment to the amendment that action on the invitation be deferred until the end of the session.

Carried.

The committee on public buildings and state institutions reported as follows:

Convention Hall,
Salt Lake City, April 26, 1895,

Mr. PRESIDENT:

Your committee on public buildings and state institutions report that they have had under consideration the various propositions referred to them, and submit to you for incorporation in the Constitution the accompanying article.

We return herewith files No. 24, 53, 84, 89, 102 and 127.

ELIAS MORRIS,
Chairman.

Ordered printed and referred to committee of the whole.

The Convention then proceeded to the third reading of the article entitled mines and mining.

Mr. EVANS (Utah). Mr. President, I would really like to be enlightened upon how that question got before this Convention. My recollection is that in the committee of the whole that matter was killed. There was no report. It was not agreed that any report of that article was to be made in any way, shape, or form, as I remember it, and I should really like to know how that came before this Convention.

The PRESIDENT. It could not be killed in the committee. It was brought back to the house to be killed. The committee recommended that it be killed. In the effort to kill it, somebody brought in a substitute and that is now before the house.

Mr. EVANS (Utah). It would certainly have to be reported back here. As I remember it, it was not done. No action of that kind was taken and it is still in the committee of the whole if anywhere.

Mr. RICKS. Mr. President, as I understand it, the committee of the whole recommended that the article be stricken out—that is, not adopted, and I made a motion that the report of the committee of the whole be adopted, but it was voted down and that as a substitute brought the whole article up.

Mr. HART. Mr. President, there was no question but what the article came properly before the Convention. The committee of the whole, if you remember, struck out the three sections, but did not strike out the title.

Mr. EVANS (Utah). Isn't it a fact that the whole article was stricken out and wasn't that the motion that was made? Would not that include the title?

Mr. HART. I don't think it would.

Mr. EICHNOR. I arise to a point of order. I think this is wholly out of

order. If Mr. Evans desires light, let him come over and find out.

Mr. HART. Mr. President, I think there is certainly a misunderstanding. As the secretary read last night, he read two of the sections that were stricken out, then came the motion to substitute or insert section three, a section from the Idaho constitution, and as the clerk read it last evening, just before the vote was to be called on the final passage of the article, he had sections 1 and 2 in there. Now, Mr. Chairman, it is very clear that this matter is properly before the Convention on third reading, but it is equally clear that sections 1 and 2 are not in here. There was a motion made by Mr. Ricks or some one else to adopt the report of the committee, but without that, those two sections would not be before this house, unless some one moved to insert them.

Mr. BUTTON. Mr. President, the first two sections were read and so was the third one, and when the third section was read, Mr. Kerr offered a substitute for section 3.

The PRESIDENT. I think the matter is legitimately before the house.

Mr. HART. I call for a ruling of the chair as to whether sections 1 and 2 are now before the house.

The PRESIDENT. There was a motion made by Mr. Pierce to adopt the report of the committee of the whole in regard to that article on mines and mining. It was lost. And in the mind of the chair the whole article was before the Convention.

Mr. HART. I call your attention to the fact that heretofore we have always taken up an article just as it was amended by the committee, and if the section was stricken out that section was not read here, and it was not considered that was before the Convention on third reading—unless some one moved to insert on third reading.

Mr. BUTTON. When those reports were taken up by the Convention, did

not they always adopt the report of the committee?

Mr. HART. That is what I say.

Mr. BUTTON. Did they adopt the report of the committee in this instance?

Mr. HART. No; the paragraph was stricken out in committee of the whole. That paragraph is out unless it is moved to insert it on third reading.

The PRESIDENT. The ruling of the chair is that the article is properly before the house.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. I submit to you, sir, that section 3 in substance has been before this Convention in the bill of rights.

Mr. SNOW. I arise to a point of order. The chair has decided this question. If he wants to appeal from it he may do it.

Mr. EVANS (Utah). Mr. President, I accepted that decision, and I make a point of order on the article itself. I am surprised at the gentleman from Washington.

Mr. HART. I would like to suggest to the gentleman that that objection should have been made at the time Mr. Kearns presented it. It is now too late. We have voted upon that. The only way to get this before the house now is on a motion for a reconsideration of that article that we placed in there, offered by Mr. Kearns.

Mr. EVANS (Utah). Is it a fact that we have passed upon section 3?

Mr. HART. Yes, sir; we voted section 3 in.

Mr. EVANS (Utah). Well, I must confess that I missed that from head to foot. I was here last night.

Mr. HART. Mr. President, the minutes of the last day show that I am right about this matter.

Mr. EVANS (Utah). Mr. President, if we can dispose of it in this way, I think it is the shortest way out. Here is a rule. Because you have blundered over that, I want to ask the gentleman from Cache if he is prepared to say—there is

no provision saying when that shall be done. It simply says it shall not be entertained.

Mr. EICHNOR. I arise to a point of order. I hold that this colloquy is out of order.

The PRESIDENT. The point of order is well taken. The whole of it is out of order.

Mr. RICKS. Mr. President, I want to know if the article on mines and mining is open for amendment?

The PRESIDENT. Yes, sir; the whole article is before the house. You can do as you please with it.

Mr. RICKS. Mr. President, I move an amendment in line 5 of section 3, to strike out the words, "useful, beneficial or."

Mr. KEARNS. Mr. President, I accept the amendment.

Mr. EVANS (Utah). Mr. President, I move to strike the whole thing out—section 3.

Mr. ANDERSON. Mr. President, I would like to ask for information, if sections 1 and 2 have been adopted? Did the president rule upon that?

The PRESIDENT. The whole of it, of course, is open to amendment.

Mr. ANDERSON. Mr. President, I sincerely trust that this motion of Mr. Evans will not prevail. I think it is necessary that this should be in the Constitution for the development of the resources of our State. This section protects all classes of citizens alike; protects the irrigator, the agriculturist, the farmer, and those engaged in mining. It will be necessary for the people that they have roads to go into the canyon after timber, after wood, after lumber, or after building rock, and these roads will pass over the lands of others. As the State increases in population all of these lands will be taken, and it will be necessary for the public use that they should have these roads—

Mr. HART. Mr. President, I arise to a point of order. The motion of the gentleman from Utah County, to strike

out this section, is out of order, for the reason that we voted this in last evening. The only way that he can bring that matter up is on a motion to reconsider the vote of last evening.

Mr. EVANS (Utah). It has been amended this morning.

Mr. THURMAN. I will ask if it has not been amended this morning and changed entirely?

The PRESIDENT. It has been amended and changed this morning.

Mr. HART. They had no right to amend it. We agreed upon that just as it was last evening.

Mr. THURMAN. Yes, that has been done; it is too late, as you said awhile ago' to raise the question.

Mr. HART. Mr. President, even if a few words have been stricken out, you cannot strike out the rest of it. If you have stricken out a few words of it you can raise the objection to striking out the rest of it.

Mr. ANDERSON. Mr. President, it is also necessary for the development of the desert lands of our State that canals be taken out from our streams and rivers, and in order to take these canals out, it would be necessary to cross the lands of others. This is a public use and I think it should be so declared and also for the manufacturing interests of our State. I think that in the future our cities and towns and our homes will be lit up by electricity and heated by electricity, and this power will be gotten from the mountain streams, and in order to develop these canals will have to be taken out. This, I contend is a public use. And also for the purpose of drainage. The health of the whole town might be at stake. Large canals may have to be constructed in order to drain a town or the farming lands of the community. This is a public use, and I think that we should insert it in the Constitution. And in regard to mining, we find that mining claims are located often in inaccessible points in the mountains, and it

is necessary that they go upon the lands of others for tunnel sites and dumps and tramways, etc., in order to develop the mineral resources of the State. I think that this is very important, and it affects every citizen. Therefore, I hope that this will not be stricken out.

Mr. BUTTON. Mr. President, I move the previous question.

Mr. CHRISTIANSEN. I wish to offer an amendment.

Mr. SNOW. I arise to a point of order. The previous question has been called for.

The PRESIDENT. Before we put the previous question, it strikes the chair that this section second—there was a question raised in regard to it last evening, that there is something there that may work improperly. I wish the Convention would look at it before we proceed.

Mr. JAMES. Mr. President, I hope the Convention will not order the previous question until this matter has had a chance to be debated.

Mr. THURMAN. Mr. President, now, I will admit that you cannot debate this, but I would like to make one explanation. I arise to a personal privilege. This matter, Mr. President, yesterday afternoon came up in a very peculiar way. After having been killed in committee of the whole, after the house was well nigh empty of its benches, a great many members had gone out, it came up here and was rushed through, and we asked that the matter might go over until this morning in order that an explanation might be made. Now, this morning the previous question is moved to shut off debate. I want to say to you, gentlemen, it takes fifty-four to pass this article, and you are not going to do it unless you have a fair, full discussion.

Mr. BUTTON. I arise to a point of order. The previous question was moved.

Mr. RYAN. Mr. President, I would

like to ask the father of this third article—

Mr. LAMBERT. I arise to a point of order.

The motion for the previous question was rejected.

Mr. JAMES. Now, Mr. President, I wish to make a few remarks upon this section, and I wish to say before proceeding to make any remarks that this is one of the most extraordinary proceedings that has ever occurred in this Convention, since we have convened.

Mr. CREER. Mr. President, I arise to a point of order. Is he speaking on any motion?

Mr. JAMES. Yes, sir; I am speaking on the motion before the house before any amendment is offered. I claim the protection of the chair.

The PRESIDENT. What is it you are speaking on?

Mr. JAMES. I am speaking on the amendment before the house, offered by Mr. Ricks, or I do not know who.

Mr. RICKS. I arise to a point of order. The amendment was accepted and it is not before the house.

Mr. JAMES. Then, I am speaking on the entire business.

Mr. EVANS (Utah). Mr. President, I submit to you that I made a motion to strike out.

Mr. HART. Did the chair rule that that motion to strike out is in order?

The PRESIDENT. Yes; I did. Mr. James will proceed with his argument.

Mr. JAMES. As I was about to say, this is the most remarkable proceeding that has come before this Convention since it has convened. And I am astonished, Mr. President—I cannot understand this proceeding. I cannot comprehend why on yesterday evening a proposition of this nature was sprung upon us, or attempted to be forced through, and this morning attempted to be put into our Constitution, without ever being heard from by a member upon this floor. Now, you know, Mr. Chairman, that in the beginning of the

discussion of this question I was strongly in favor of extending to the mines and other industries of this Territory rights that I thought should be granted them for the purpose of their development, but I knew I was treading upon dangerous ground, when I even conceded in this Convention that this Convention had the right to declare the right of way over a man's ground for private purposes, but I believed that it was the best thing that we could do for the benefit of this mining industry, and this matter was voted down. It was disposed of by this Convention, and now here comes a sweeping proposition before this Convention, that if it goes into the Constitution, in place of benefiting the industry will become one of the greatest obstacles and hindrances to it that it is possible for men to put upon the statute books of this State. Now, I assert that no man that understands his business as a miner, that has followed the business as I have followed it, will say the contrary of what I have repeated before this Convention. And, Mr. President, if you want to bring nine-tenths of the vested property holders in mines in this Territory to vote against this Constitution, you pass your act as you have attempted to put into it our Constitution and you will get it done. Now, mark my word. I know what I am talking about. I have prospected this intermountain country from the British Possessions to Mexico on the south. I have been at the business for the last thirty years. I have observed it in all its ramifications, and I know what the miner wants, and I know what he does not want, and I will tell you, Mr. President, no miner wants, after his years of toil in the hot suns and in the snows, and in the storms, and in the exposure that he goes through, to secure the piece of mining property—he does not want any set of men to come upon his ground and declare that erecting hoisting works for private purposes, to work some

other man's mine, is a public use. Now, think of the proposition—coming onto a man's ground and erecting hoisting works for private uses and declaring it for public purposes.

Mr. KEARNS. May I ask the gentleman a question right there?

Mr. JAMES. Yes, sir.

Mr. KEARNS. I understand that this says, "hereby declared to be a public use and subject to the regulation and control of the State." Is the future Legislature going to send a man onto your claim to put a shaft down?

Mr. JAMES. The future Legislature should have no business through this Constitution to be permitted to perform such an act.

Mr. KEARNS. You are afraid the future Legislature might not be as intelligent as this house.

Mr. JAMES. I am not afraid of the people anywhere. I have confidence in them, but I am afraid of this Constitution, if it proposed to do such things as it is proposed to do in this act.

Mr. CRANE. May I draw the gentleman's attention to one section of the preamble and bill of rights? If you notice in section. 23, it says that private property shall not be taken or damaged for private use, unless by consent of the owner.

Mr. ROBERTS. I think that was stricken out.

Mr. JAMES. Mr. President, now, about ten or twelve years ago, within twenty miles of this town, there was a mining claim that has paid out in this town since that period, for over one hundred thousand days' work, that would have been subjected to closing absolutely under this provision, and that labor that has been paid for, never one dollar of it would have been expended. Now, that is a matter that comes directly under my observation. Here is a mine located, it is worked at one end of the claim. The workers of that mine do not know where the ore is going, but near the other end of the claim, or par-

tially towards the other end of the claim, up on the mountain side, come some fellows, and locate a worthless claim, and commence to dump down. At that time the surface ground that was owned by the right of patent from the government, that was then of no value, except surface purposes, that had been granted by the government, and five dollars an acre paid for it. Now, supposing those men that spent twelve thousand dollars there, trying to get into the mine, had called a jury under some legislation, and condemned that surface ground and paid for it, what would a jury have said it was worth? Why, they couldn't have said it was worth more than a few dollars—maybe five or ten dollars, or twenty dollars an acre. It would not have amounted to anything. They could not conscientiously say anything more, but by and by when the owners of that property developed their property, until they found it was necessary for them to erect hoisting works right where that dump came, what would they have done? This surface ground, which in the wisdom of the government of the United States had been given to the miner, for the purpose of enabling him to develop his claim, was owned by somebody else, and had been taken away from him, and he found it impossible to go ahead there and open his mine. Now, that is the condition, and that is just what this proposition proposes. It is proposed to put the thing into a shape so that through some accident the surface ground of a miner may be taken away from him at a time when there is no particular value to it, and by and by, when the ore extends under that ground, and it is necessary for him to go upon that ground and upon his mine and work it, it is owned by some other institution that has nothing of value, that cannot come in there and utilize it, and he is shut out, and he has got to pay those men back again after securing that land from the government

of the United States. Now, that is the provision that it is intended to compel us to accept in our Constitution. And I say to you, it is a most vicious thing, in my mind, that has come to my attention since this Convention has convened, and I hope that this Convention will see to it that no such thing is put into our Constitution. I hope that they will do what is right, give a right of way of roads or anything of that kind, for the working of mines, and do not allow dumps or hoisting works. Why, Mr. President, how long will it be until there will be a right of way through your shaft for public purposes—a right of way through your tunnel for public purposes? Why, you are opening the door here to the most dangerous proposition that was ever heard of in the world, and I cannot believe that this Convention will be so indiscreet as to adopt a proposition of that kind.

Mr. BOWDLE. Mr. President, I want to say just a few words. I do not want to go over what was discussed days ago on the question of eminent domain, and all that kind of thing, but this is a very queer article in some regards. It starts out with the necessary use of lands for construction of reservoirs and storage basins. Now, necessary to whom? It does not say to the public. Under that section, any man could claim that there was a necessity for him going across, over, or through any other person's land, and if he could make it appear to a jury that that was true, it would go right through. It raises the question here, do you own your land or does some other man own it? Under that section there is no guaranty to property in this Territory. We have now a guaranty of private property to the private individual, and it can only be taken for public use—something that will benefit the people, but in that section there is no such thing. Any one man can claim that he has the right to go across his neigh-

bor's land. Gentlemen, I take it that this Convention is not a wealthy body of men, and I want to say to you that if you count the wealthy people who will suffer—it will be the poor people under this section who will suffer, and don't you forget it. The wealthy man is always able to take care of himself, and the wealthy corporation is always able to take care of itself, and to get just what it wants, and it usually does. If they do not do it in one way they do it in another way. And it is the poor fellow that needs the protection, and it is for the poor man that I would urge my objections against this section. I do not care whether he is a miner or agriculturalist. Suppose you have a claim down here, be it a mining claim or be it a land claim, I do not care which it is. Some man wants to go across there. He claims that it is necessary for him to go across there. You say that it is not any necessary use, you don't want your place cut through that way by him. Your only relief against that individual man is a lawsuit; no difference how poor you are, the only relief you have got is a lawsuit. That is all, you have got to do it. And if he is a wealthy man or a wealthy corporation, he don't care for a lawsuit—not a particle, when he can carry his point and compel you to give that that you don't want to give. You don't have to give it, that is true. There is a provision here that you are to be paid for it, but I submit to you, gentlemen, that is not sufficient.

The question is, do you want to be compelled to sell out, at some other man's price, your own property? That is the question. If you are willing to give this privilege to compel every man in this Territory to sell his property at some other man's price, then put this in there and you have got them. That is what it means. You have not anything to do with saying what the price is, and probably you have had enough to do with juries to know they are not

to be entirely trusted in those regards. You may want that as a whole. It may have a peculiar value to you. You would not sell it under ordinary circumstances for an ordinary price. They say to you, "This man can go across that way." A neighbor on the other side says, "We want a way across there." It is necessary for him. He has a little patch of land over on the other side, he wants to get water to. This law gives him the privilege of going the other way. There is absolutely no limit to it, the way you have it here—positively no limit. Now, I tell you what is the trouble with the gentleman. Some of us have known individual cases where some stingy fellow has sat down and has said that where it was absolutely necessary, some other man should not go across his property for public benefit, and he has caused a great deal of trouble, and we have concluded that this would remedy that. It may remedy that, but it brings the otherevil that I have just been speaking about, and I tell you that whenever you invade the right of private use, you take away a very sacred right, a right that is guaranteed to every man in this broad land. Now, gentlemen, I am opposed to it, upon those principles, and shall vote against it, and vote against the article on its final passage, if that is put in, because I cannot conceive of any real reason why that article should go in there and thus put property of every individual in this Territory up as against the property of his neighbor.

Mr. EICHNOR. I would like to ask Mr. Bowdle a question. The last line or two of section 3 provides that these uses are hereby declared to be public and subject to the regulation and control of the State.

Mr. BOWDLE. I do not think it means anything.

Mr. EICHNOR. Mr. Bowdle, who is the real owner of the property of the State?

Mr. BOWDLE. I say that the Legislature is not—answering your question in the negative.

Mr. EICHNOR. I will put my question fairly and squarely, and I want a fair and square answer. Who is the real owner of the property in a state—the individuals or the state?

Mr. BOWDLE. The individuals own it, and the state cannot lay its hands upon that private property solely and except for public use.

Mr. CANNON. Did you ever come across a principle in law that an individual simply has the title to the land and the real owner of the land is the State?

Mr. BOWDLE. I do not think that that has anything to do with this question. That is an old theory, I admit, but I do not believe that it has one thing to do with this. Where are you putting the title, Mr. Eichnor?

Mr. EICHNOR. I am asking the question of you and you fail to answer.

Mr. BUTTON. I would like to ask Mr. Bowdle a question.

Mr. BOWDLE. I would like to answer Mr. Eichnor. I say that the people own the property and not the state, and there is no principle of law in this world that lays down that the state owns it.

Mr. THURMAN. May I ask you a question?

Mr. BOWDLE. Yes, sir.

Mr. THURMAN. If the state owns the property, as suggested by my friend Eichnor, is there any need of this article in here at all?

Mr. BOWDLE. Absolutely none, and it would be a perfect absurdity.

Mr. BUTTON. I want to ask Mr. Bowdle—he says that the last three lines of this section do not amount to anything.

Mr. BOWDLE. No; I said legislative control.

Mr. BUTTON. I understood you to say that it did not amount to anything.

Mr. BOWDLE. I say I do not think

it does amount to anything in this. It would take me an hour to answer you what it means and what it amounts to. It amounts to robbing one man for the benefit of another man. That is what it amounts to.

Mr. KIMBALL (Weber). Mr. President, on this third section of the mining article I have a little something to say, and as my friend from Beaver told us (Mr. Anderson), I am in favor of that article. I am in favor of it for this reason, that God Almighty when He created this world, created Utah with the rest of the world, as my friend suggested—San Juan among the rest. It will not be doubted or questioned that irrigation is a principal factor in developing the Territory or State of Utah. There cannot be any question about that, and while it is true that most of the water rights in Utah are vested, at the same time agriculture is one of the principal factors in the development of this State, and must be for all time to come, and it is necessary in order to develop the agriculture that we have our ditches that we have, irrigating canals, and we want those, and so far as this Constitutional Convention has gone now, there is no provision for it, and the third section, as read by the secretary, provides for that. In my opinion it is necessary that this Convention adopt that article, so that leaving mining out of the question altogether—for the benefit of agriculture it is necessary that we adopt that article so that we can have the right of eminent domain so far as water ditches are concerned. It is equally necessary to develop our mines that we have the right of eminent domain so far as water ditches and drainage and dumpage is concerned.

Mr. JAMES. May I ask the gentleman a question? Having proceeded to develop our mines and our agricultural resources in this Territory—have not we been doing it for the last twenty or thirty years?

Mr. KIMBALL (Weber). Yes, that is

true, but we are changing our condition now from a Territory to a State.

Mr. JAMES. Did not we do it under a statute of the Territory and under a statute of the United States?

Mr. KIMBALL (Weber). We did, and it is very indefinite, and all that depended upon the decision of judges entirely. There was no statutory regulation of it. It depended upon the decision of judges, and it depends now if you don't adopt this article. While the law remains the same, it depends upon the individual judgment of the men that we elect to the bench, and I say put it into the Constitution, so that the judges cannot evade it in any way, so that when the question comes up, therein the constitutional article that we have got the right to exercise the right of eminent domain for the purpose of agriculture, for the purpose of mining, and for sanitary purposes. That is what we want.

Mr. THURMAN. Do you consider mining a public purpose?

Mr. KIMBALL (Weber). In this Territory, yes, sir; I do consider it a public purpose.

Mr. THURMAN. Do you consider agriculture a public purpose?

Mr. KIMBALL (Weber). I do in this Territory.

Mr. THURMAN. You consider all of these so?

Mr. KIMBALL (Weber). I consider every industry mentioned in that third section as read by the secretary a public purpose. We are in an anomalous condition.

Mr. THURMAN. Then, let me call your attention to section 23, which provides for taking property for public purposes.

Mr. KIMBALL (Weber). That is all very true. Now, the third section as proposed in this mining article, sir, declares what public purposes are. Private property cannot be taken for a public use without just compensation. The section that we have now under consideration does not affect that sec-

tion at all, but it simply says what shall be public uses, and in this mountain country certainly mining and agriculture are a public use. They must be.

Mr. THURMAN. I agree with you that they are and that the courts will so hold. Now, I will ask you another question. Is there anything in this section that is before the Convention that is a private use?

Mr. KIMBALL (Weber). No, sir; I do not think so.

Mr. THURMAN. Then, why declare it to be a public use if it is already a public use?

Mr. KIMBALL (Weber). I will tell you why. There is a division of opinion among the judges east of the Rocky Mountains and west of the Rocky Mountains as to what is a public use, and I say now, to settle that whole question, we want to put in our Constitution what is a public use.

Mr. THURMAN. Suppose there should be something here that is strictly a private use—can we make it a public use by simply declaring it so?

Mr. KIMBALL (Weber). Not by that section, no, sir; I do not think the section that we have under consideration contemplates the making of a purely private use a public use, but we are shut off here by the mountains. We are an agricultural community, and we are a mining community, and if you take the decisions of the states east of the Rocky Mountains, where there is no irrigation ditch, there is no mining ditch, there is nothing that we can do that would not be a private use, as construed by the decisions of the courts east of the Rocky Mountains. We are following the decisions of those courts. Now, what we want to do is—we are here situated so that we are obliged to have an education. We are obliged to have mining, and we want to declare those things public uses. That is my point exactly.

Mr. THATCHER. I am not an attorney, gentlemen of the Convention,

but the doctrine announced by my friend from Salt Lake is quite a new doctrine to me. Until he had made the statement that the people had no property, but that it was all in the State, and that all the people had was the title thereto—it had occurred to me heretofore that title, for instance, the United States patent, was irrefragable evidence of ownership. I desire to call the attention of the Convention to this fact that this whole mining business was condemned by this Convention, nothing having been left, as I understand it, except its title, but by peculiar methods we find this thing presented to this honorable body for re-discussion. It may be that we are able to give a definition of what is for a public purpose, and when we do we restrict the Legislature to that definition. You will remember, gentlemen, that the irrigation bill was mainly killed because those who presented the bill advocated the control of the water right by the State.

Now, gentlemen, I have some property in this Territory, which under such a condition or under the last two lines of section 3, which is now before the house with a motion to strike out—I am perfectly willing to give that property to any gentleman on this floor—my houses and lands, and barns, and horses. The only condition that I would require is this, pay the taxes on that property, keep it in good repair, keep my carriages and buggies and harness just as good as they are now, feed my horses and keep them fed, just leave the control with me, and that is all I ask. When you want to use the horses I will be there to tell you that I have the control of them. If I don't manage better in the future than I have in the past, why then I will think myself no financier. That is just what these two lines do—the very thing that we fought against and killed by almost unanimous vote on this floor. But we find it introduced here again. Many

private matters declared to be a public, and those matters placed under the control of the State. I object to it and shall vote for that reason against that section. I shall vote for striking it out, feeling, however, that if attorneys well versed in the law can draw a section, after mature deliberation, that will give the proper definition of what is for a public purpose in order to keep it out of the courts, the expense of litigation that must follow, well and good, but the first two sections I am opposed to—this appointment of a new officer to go to coal mines, who is taken charge of by the manager of that mine, taken into every part of it, where there is no danger, he goes back and reports that all is right, and in three days afterwards there is a fearful explosion and a dozen or fifty or a hundred lives lost. I am opposed to this section and to the bill as it stands, and shall vote for striking out section 3 on that proposition.

Mr. BUTTON. I would like to ask the gentleman a question. He spoke about creating a new office. Have they already got a coal inspector or a mine inspector?

Mr. THATCHER. Yes, sir; a thing we ought to do away with.

Mr. BUTTON. It would not be a new office then?

Mr. THATCHER. It would be a new office of the State, I take it.

Mr. KIMBALL (Weber). I would like to ask Mr. Thatcher a question. Is not irrigation one of the prime necessities of the Territory?

Mr. THATCHER. I think so, and equally so in mining. I am just as favorable to the provisions of mines as I am to agriculture.

Mr. KIMBALL (Weber). What objection have you, then, to declaring those public uses?

Mr. THATCHER. I would have no objection if that section defined what I would conceive to be a public use, but when you build on other people's prop-

erty hoisting works and dumps and things of that kind, without reference to—

Mr. KIMBALL (Weber). Under that section you cannot do it, without a jury or some other legal tribunal.

Mr. THATCHER. If that is so, let the court pass upon the whole question.

Mr. ROBERTS. I would like to ask who it was that presented this section.

The PRESIDENT. The chairman of the committee on mines and mining.

Mr. ROBERTS. Mr. Kearns. I thought I had heard some attempts to find out who the father of this child was, but I could not locate the matter. From my knowledge of the character of the gentleman I should never have thought that he would have hesitated to have proclaimed his progeny, but, sir, I would really like to know when this Convention is to consider a question settled. Now, sir, there are several things in this Constitution that I would like to agitate, but the Convention has been against me and against some of the propositions that I favor, and I have accepted the action of this Convention.

Now, sir, I remember that this subject was up for discussion when the very first article presented in this Constitution was brought upon the floor of this Convention, and after several days of debate and earnest effort to come to an understanding in regard to what would be proper, just, right, and prudent, we settled the question, and we settled it, sir, upon contrary principles to what are laid down here in this third section. When the taking of private property for private uses and the taking of private property for public uses was under discussion, the decision of this Convention in effect was that those matters should be left to the Legislature and to the courts of this country. Then, sir, this question was brought up again on this article of mines and mining and we went over it, sir, again in the committee of the whole, and again we

rendered a verdict against such a thing as this third section is, and after the entire article was stricken out by the action of the committee of the whole, then we are again confronted with the self-same proposition. Now, sir, it seems to me, that men ought to learn to take defeat of their proposition when majorities are against them, and I think it is a foolish waste of time to bring up again and again and again the same old proposition. Sir, I look upon this section as crude—extremely crude, and as containing things that are mischievous in their nature. The gentleman from Salt Lake, Mr. Bowdle, discussed this question, saying what could be done with private property if some individual should say that it was necessary. Why, sir, it may not only be claimed—he need not claim that it is necessary. It shall be sufficient for the accomplishment of his purpose under this language if he can only say that it is for some useful purpose.

Mr. KIMBALL (Weber). Does not the court have to pass upon the question of necessity or use before it can go to a jury?

Mr. ROBERTS. Then, sir, if it does, why not permit the court in the first place to define the useful and the public purpose at the same time?

Mr. KIMBALL (Weber). For the very reason that the majority of the decisions are that this is not a public use. We are here peculiarly situated. We want to declare what is a public use. If you go east of the Rocky Mountains, the things we declare here are a public use are not a public use there.

Mr. ROBERTS. I was not aware that the words "useful and beneficial" were stricken out, but, sir, I take it that we shall all be equally safe, the miner, and the agriculturist, and the manufacturer, if this question is left to the Legislature and to the courts, and if there is any meaning in the last phrases of this section, that is where it hinges. At any rate is it to be de-

clared to be a public use and subject to the regulation and control of the State?

Why not leave it in the control of the Legislature in the first place? And then here is another sweeping proposition that I cannot understand the reason for, and that is to make use of these necessary lands for the various purposes named, not only for the purposes declared here, which I am of opinion mean a private rather than a public use, in some instances, but to the complete development of the State. I would like to ask the gentleman who drew the article what he means by that? He will have an opportunity of speaking and I shall watch his speech very closely to hear his definition of that purpose. And, sir, I protest against this continual bringing up upon the floor of this house a snake that has been killed time and time again, and I think that we ought to stand by the decisions that we have now twice rendered upon this subject.

Mr. CREER. Why was it that you continually brought up the female suffrage question after it had been voted against?

Mr. ROBERTS. Mr. President, in answer to that—there was an opportunity here yesterday to bring back the article on rights of suffrage—the whole of it. I wish to call the gentleman's attention to the fact that I voted against bringing it back here and throwing it open for discussion, and I wish to say further on that proposition that that question was not brought back, only as it appeared in the committee of the whole, and then in the Convention, but this question has been decided in the committee of the whole. When the article or bill of rights was discussed in committee of the whole it was killed then. It was brought upon the floor of the Convention and killed then. It was brought again in committee of the whole, on the article of mines and mining, and was killed then,

and then it was sprung upon us as a surprise yesterday afternoon. When the article on irrigation also—

Mr. KIMBALL (Weber). May I ask you a question? Wasn't it understood when it was killed in the bill of rights that it could be brought up subsequently in this Convention in an appropriate article?

Mr. ROBERTS. I have no such understanding.

Mr. KIMBALL (Weber). I so understood it.

Mr. SNOW. Mr. President, I think the discrimination that this body will be able to exercise will convince them that the insinuation of Mr. Roberts in relation to foolish waste of time is not well taken. I want to remind the gentleman that this section, as reported by Kearns, has taken the usual parliamentary routine, and that it has come legally and in order before this body, and it has not been a foolish waste of time, except upon those who would like to see it adopted. They have not taken any undue advantage, neither have they brought it before this Convention at any other time than when it could come regularly and legally before it, and according to parliamentary rules and order. I would like to ask the gentleman of what use mines or agriculture will be without these rights of way? Whether they will be of any use whatever, whether it be public, or whether it be private use? Now, you take an arid region, and if we do not have the right to condemn lands for storage basins, for reservoirs, or for canals, and ditches and flumes, the land will be of no use to us whatever. It will neither be a private use nor a public use. This is substantially the law to-day. There is a territorial statute that confers substantially the rights of this section upon all the agricultural lands and settlers, and I submit that in all arid regions these rights are absolutely necessary to the maintenance and perpetuation of agricultural life, and I can

see no way when it is left to the control of the State of any poor man being imposed upon, but I can see where poor men who wish to congregate themselves together and unite their labor and capital would be unable to condemn the land of some corporation or some rich man without they had this defined as a public use. They could not build a reservoir; they could not construct canals to their lands, because of a standing in the way of those who held this land, and they might be, as it were, a dog in the manger contending for prices that these men could not meet and could not obtain. I am not in favor of this going through without just compensation being first made, but I think it is an eminent domain—that land could be condemned. It is entirely different in relation to water. We can get plenty of land, but we cannot get water. I think the circumstances are entirely different, of those who refer to striking out the water article for this purpose. I think their point is not well taken for these reasons. We have lived under this statute which has been recognized all over the Territory for many years, and I see no reason why we should not perpetuate it.

Mr. IVINS. Mr. Chairman, I want to call attention of this body to the fact that this question has never been before this Convention until this morning, notwithstanding the remarks of other gentlemen to the contrary. In the bill of rights there was nothing said in regard to the declaring of certain property or certain things to be public uses. And that was one of the objections, that private property shall not be taken or damaged for public use, without just compensation. That was section 23, as it was originally reported. Then, that private property shall not be taken for private use, unless by consent of the owner, except for private ways of necessity and for reservoirs, etc. The very objection that was raised to this was that that was private property taken

for private use, and that those uses were not declared to be public. That was one of the objections raised to it.

Mr. ROBERTS. I will ask the gentleman from Washington if he does not remember that the gentleman from Salt Lake brought in or submitted a substitute which made a declaration of public purpose only, and that was discussed and discussed?

Mr. EICHNOR. That was Mr. Van Horne.

Mr. IVINS. Yes, but it was not exactly in the same terms that this is, from my recollection. Now, let us go on a little further. It has been said that this question was settled when the report of the committee on mines and mining was introduced here; that is not the case. The section reported from the committee on mines and mining provided that the necessary use of lands for rights of way, for tunnels, flumes, etc., was declared a public use, and the objection was raised here that agriculture was not included in this, and consequently members refused to vote for it, because they said it was a discrimination between mining interests and the agricultural interests, so that in order to meet this objection the chairman of the committee on mines and mining introduced the section which is now before us, which provides that not only for mining, but for agricultural purposes, these shall be declared public uses. And I contend that in its present form it has never been before this committee for consideration, therefore, this ground is not well taken. Now, the gentleman says the article is crude. That may be the fact, but if it is crude, let us perfect it, and not leave it in the indefinite condition that it is. I apprehend, gentlemen, that a greater injury—a greater hardship will be wrought upon the poor farmers of this Territory, unless this section is adopted, than can be possibly wrought if it shall be. There are objections to it, certainly, grave objections, to leaving this

question without some declaration. There are railroad corporations now in this Territory that control vast areas of land, with unlimited means behind them, to contest the right that might be claimed by any body of farmers to construct a canal across their lands, and such matters confront us now in the northern part of this Territory, where canals are contemplated and railroad companies absolutely refuse to grant the right of way to the poor men who are seeking to construct them. Now, I shall vote for the passage of section 3, just as it is, unless some member can amend it and make it better. I am willing to assume a part of the responsibility for it, in connection with the chairman of the committee on mines and mining, of which I am also a member, and I do not think there will be any hesitancy at all upon his part in assuming the fatherhood of this child.

Mr. VAN HORNE. Mr. Ivins, do you remember the fact of an amendment to section 23 of the bill of rights that public use should include reservoirs, flumes, tunnel and mill site, and dumps, upon, and rights of way over and across the lands of others for railroads, roads, tramways, water ways, and drains, which was amended by the gentleman from Salt Lake (Mr. Richards) to include pipes, conduits, etc., for mining, milling, domestic, agricultural, and municipal purposes?

Mr. IVINS. Yes, I remember that something of that kind was—

Mr. VAN HORNE. More carefully worded I think than this, and that was voted down by the Convention?

Mr. IVINS. I remember that something of that kind was introduced, but I submit, notwithstanding the fact that that amendment might have been voted down, it might have been very materially different to the one that is now before the house, from the fact that the insertion of a few lines would have changed the status of the whole ques-

tion. Now, I am free to admit that when this question was first under discussion I was very much inclined to the opinion that such a section should not be inserted in the Constitution; but the more I thought of it, the more I reflected in regard to conditions that exist in the sections of country from which I come, where I know that canals and reservoirs are now under course of construction, and I know that in order to utilize that water upon vast areas of desert land, it will be necessary to pass over the lands of others. I have concluded that some such provision as this is necessary, and I believe that we will make a greater mistake if we omit it than if we insert it.

Mr. HOWARD. Mr. President, I am in favor of this section being passed, and I recollect, as Mr. Van Horne mentioned, about the amendments introduced by him. I know that I voted against them at the time, but they were not in the shape that this present section is. This section was introduced here last evening, as a substitute for the one introduced by the committee; it provides "and subject to the regulations and control of the State." That does not mean that the State shall take the control of everything in the State and furnish the means to carry it out with. It does not mean that the State shall furnish the means to develop mines or to develop the farming industry, or anything of that kind, but it means that the Legislature shall control it in this way, that they might provide means whereby these rights of way may be obtained. The Legislature may provide under this section that the price, be what it may asked by the individual, shall be paid for this right of way, or it may provide that the property may be condemned by condemnation proceedings and a valuation placed upon it. It may provide that that valuation and that price shall be paid before the property shall be taken. And the Legislature may also provide in regard to

what is a necessary use. This says a necessary use of lands. It is left to the Legislature to provide what that necessary use is. Now, we have in the Enabling Act—Congress has given to the State of Utah, several million acres of land, and it is to be presumed that two or three millions of that will be agricultural land. There is no man on this floor that will get up here and say that we have water at the present time for watering one million acres of land that is not appropriated, without it is some—probably Green River on the east, which I don't know of a place now where there is that much land that water could be taken to, but for the sake of the agricultural college, for the university, for the sake of our public schools, for the sake of these various institutions, for which Congress has given this land, I say that this section is necessary, because what use is that land to the State without it can be developed? What use is it to the poor man to take up and farm on the desert without he has the right to construct a ditch or a canal and get the water to it, or to build a reservoir, where he can store the water before he takes his canal? I claim, Mr. President, that the adoption of this section will increase the value of the public lands of this State in a great measure, and be a means to furnish and to guarantee to the poor man or to others that may want to take up this land, the right to take canals or ditches to it to develop it. I believe that the section ought to pass, and leave it to the Legislature in what way it shall be disposed of.

Mr. VAN HORNE. Mr. President, I thought that this Convention would make a very great error if they passed this section worded as it is at the present time. I am in favor of a general declaration, carefully worded, of public use, including necessary extended works for the purpose of irrigation, development, and mining, but I want to call the attention of the Convention to some of

what I consider the weak points in this article under consideration now. The first part of the section is, "the necessary use of lands for the construction of reservoirs or storage basins." I think it entirely proper to designate that as a public use, because a reservoir or storage basin we know from the nature of things is not the particular use of an individual, but the use of a more or less extended operation of the community—of the public at large. So far the article is all right; following on down, "or for rights of way for the construction of canals, ditches, flumes, or pipes to convey water to the places of use for any necessary purpose," is all right. They should have those rights of way, because it does not interfere with the title to the land, nor to the general use. It is simply a way of conveying something useful to the public across the private property of another and only gives them an easement—a right of way for that purpose across that land, and is not taking the private property of the individual. Notice, however, gentlemen, now how the section reads, "or for drainage." Not saying that it is necessary drainage. It does not say that it must be necessary, nor that this shall be a public use, but if it is convenient for some one, or desirable or it is their whim that they drain a certain portion of land, then they can do this. There comes in a semi-colon "or for the drainage of mines." Simply a matter of convenience or necessity, whether a man might want to put up a pump to drain his mine or not. You say by this article whether it is for the drainage of mines, whether it is simply convenient or not, he can condemn the land of others in order to get across it with drainage pumps. Further on, "or the working of the mines." I know that it is necessary—I know that it must be necessary before he can do that, but the working of mines generally is a public use, so that if it is more convenient to work them in one way than

in another, he can say that the way that is most convenient to him, or that he considers most desirable, is a public use and that consequently he is entitled to condemn the land for that use. It goes on, "by means of roads, railroads etc.," declaring them as necessary means of development, and then to show that it does declare them as necessary in the way that the man who owns the property and works it may judge best and most desirable for him, and says, "or other necessary means." These are necessary and any others that the court may construe may be necessary also. Now, gentlemen, see how far it goes. They are necessary uses, what for? Not for the reasonable development of these mines, which would be held to be a use by which the mines could be worked and the fruits thereof enjoyed, by the man or company owning them, but are other necessary means to their complete development. What does it mean? Did you ever hear anything so broad? It means that if by adding any of these rights—taking any of these rights away from the individual, you can make a more complete development of this in that way, than you could in the other—a more desirable one to the man who owns the mine, and you can condemn the land of another man for the purpose of so doing.

Mr. KEARNS. This section says, "the necessary." Now, you can go on and argue fundamental principles of it all day. The State has the control of it, has it not?

Mr. VAN HORNE. What portion are you calling attention to?

Mr. KEARNS. The first three words in the last two lines.

Mr. VAN HORNE. I was calling attention, not to the opposition to the general declaration of a public use. I was calling attention to the fact that this article in my opinion is artificially drawn—that it goes further than any man on this floor intends such an

article to go, and the way it is constructed—separating that first paragraph from the ones that come afterward, it leaves it open to construction that would be just simply ruinous of the rights of private property in this Territory. I am not opposed to the proposition, as I said before. I introduced the section on public use after consideration with eminent legal gentlemen in this town, for insertion into the bill of rights. It was drawn carefully and hours were spent upon it by men who are known to the community and bar here, and to the courts, as men of eminent ability. I believe that there should be a declaration of public use that will give our courts—will impose upon our courts the necessary duty of saying when certain things come up for a condemnation on the ground that it is a public use, that mining and irrigation are public uses, and where the necessity can be shown to carry them out, that the courts should give to the men desiring the right to exercise eminent domain over the property of others—

Mr. IVINS. I would like to ask the gentleman a question. The gentleman says that he is in sympathy with the general idea of this provision, but that some parts of it are dangerous. I want to ask him if he cannot suggest an amendment?

Mr. VAN HORNE. I could suggest an amendment if it is in order.

Mr. RICKS. Mr. President, I move that this article go over until to-morrow to allow the gentlemen to agree upon some proposition to be presented to the Convention.

Mr. ROBERTS. Let us settle it now.

The PRESIDENT. The question before the house is on the striking out.

Mr. MORRIS. Mr. President, I consider that to strike out this section 3 or to kill it—it means to kill enterprises and industries of every kind in the new State. That is just my opinion in a few words, but it may not be perhaps exactly right from the wording. Some

might take advantage of it to the injury of his fellows, but I think that an amendment of a few words, it can be made a benefactor to a new State, and we cannot afford, gentlemen, to throw any obstruction whatever against the interests of mining and agriculture, for we all depend on it, and I favor to place this section 3 in the Constitution that it may stay there as long as the power is given to the Legislature to regulate and govern and to control these matters.

Mr. THURMAN. Mr. President and gentlemen of the Convention, I am in favor of the motion to strike out. If I could offer any amendment that would accomplish what gentlemen in good faith seem to want to accomplish, I would gladly do it, but I am unable to do it, and it seems that the gentlemen of this Convention are unable to do it. Now, I want to read two or three lines of this proposed substitute and ask every gentleman upon this floor if he desires any such control to be given to the State. If we will read the first line or a part of it and omit all of the specifications down to the general provision at the close, it brings into plain glaring light what this Convention is now asked to do. "The necessary use of lands * * * * to any use necessary to the complete development of the material resources of the State." The meaning of that, gentlemen, is simply this, it does not mean mines and mining alone. It is not agriculture, but under this section you cannot imagine any industry in which one single man can engage, if it is for the complete development of the resources of the State, but what eminent domain here is proposed to be exercised in his behalf. A complete development of the resources of the State, gentlemen, means right to strike one lick towards the completion of it, and in order for a private citizen who has a little herd or flock of ewes up in the mountain, a dozen or so, and he wants to develop a

little spring of water—of course that is necessary to a complete development of the resources of the State, that he should have the right to do that—and in order to do that, it is necessary that he should have the right to subject the land of every individual in the State, so far as necessary to that complete use. And so it is with any industry that you can conceive of or imagine, gentlemen. I tell you there has never been a proposition brought before this Convention that is as vicious as the proposition we are now considering, and if I stood alone, gentlemen, I would vote to strike it out. And when we ask gentlemen on this floor, "Do you think mining is a public use? Why, yes. Do you think agriculture is a public use? Why, yes." So do I think so, and I say, being a public use, we have provided for it so that there can be no escape. If I ask, "Gentlemen, do you want to subject private property to a private use? Oh, no." Then, if you want to subject it only to the public use, why not rely on section 23 of the bill of rights as, nearly every state of the Union has done? I tell you, gentlemen, you want to subject private property to private use, and it is not in the power of this Convention to say that the property of one man shall be taken from his pocket and put into the pocket of another. You cannot do it, gentlemen. The courts will say that your Constitution is unconstitutional. It is unquestionable.

Mr. KEARNS. Have not all the states got this provision?

Mr. THURMAN. Idaho has it, and Idaho has had other provisions, gentlemen. Idaho is not a model for me to follow its legislation.

Mr. KEARNS. Any more of them got it?

Mr. THURMAN. Its legislation is unconstitutional and has been, and every member on this floor knows it. I do not look to that quarter for light upon the question of what is proper

legislation, and if Idaho did it and if it followed some other state that illy considered the question, what has that got to do with us here? I will tell you, gentlemen, if this Convention were to say to-day that one man might put his hands into the pocket of another and take his money out and put into his own—if we should declare that, next year when New Mexico comes to adopt a Constitution, and wants the provision, it would cite the Utah Constitution as an example. That is where we lead to. Gentlemen, let us stand on what we have done three or four times in this Convention. Let us strike this out like men, and say that it must be hands off when you come to touch the sacred rights of private property, unless it be for a public use. Now, coming to that question, one moment and I will conclude. I say that mining is a public use. I say that agriculture is a public use, and the courts of Utah will hold it to be a public use, so far as it is a public use; but when you depart from the public use and bring it down simply to a private use, you have no more right to do that than you have to go and take a horse of your neighbor, simply because it is doing nothing and you can use it to develop completely the resources of the State. That is what the State could do under this provision. Gentlemen, I might just as well be frank with you. I tell you, you cannot adopt any provision by which you can declare that a private use is a public use. You cannot do it. The courts in the end will decide that question.

Mr. HART. Will the gentleman permit a question? Supposing a farmer, the owner of a tract of land, say 160 acres, to get water on the land has got to take a ditch across the land of his neighbor, he has either got to take the ditch across the land of the neighbor or build an expensive levee, almost equal to the value of his land. His neighbor refuses to permit him to take a ditch across that land, although

just compensation is offered for it. Does the gentleman understand that under our present law the owner of that 160 acres of land could compel his neighbor to permit a ditch across that land, or would he have to either abandon his land or construct the expensive levee?

Mr. THURMAN. I do not know; the courts would decide that question, and if the court decided that it was purely a private use, I say let him abandon his land. If you cannot get property without taking you neighbor's property from him, you are not entitled to it. That is the ground I stand on.

Mr. HART. Suppose another case. By taking five acres of your neighbor's land you build a storage basin and reservoir, which will irrigate a few acres of land. Your neighbor refuses to permit you to have that five acres of land, although you are willing to pay double and treble the value of the five acres. Would it be to the interests of the State to abandon the use of all the land that might be utilized by constructing that reservoir, or would it be to the interests of the State to require that individual to give up his land?

Mr. THURMAN. I think the courts would hold it to be a public use, but the courts ought to decide it. That is the ground I stand on. It is not for this Convention here to decide that question.

Mr. KEARNS. Is it not a fact—you are a lawyer, Mr. Thurman—that the courts of California, Pennsylvania, West Virginia, hold that it is not a public use?

Mr. THURMAN. Well, I am not familiar with all the decisions. I know that it has been held each way, but I take the position again, that after all we have got to be bound by the courts. Your declaration here is not worth the paper it is written on. You cannot take the private property of an individual and give it to another private individual, and you cannot say that whereas it is only a private use now,

by the simple ipse dixit of this Convention we are going to make it a public use, in order to get around the question. You cannot do it.

Mr. VAN HORNE. Is not it a fact, that by declaring a public use, we put upon our courts the burden where there was a conflict in authority of deciding that under our law, that public use held by some to be public, and by others to be private—to hold under our law that it was public?

Mr. THURMAN. I will tell you what I think about that, Mr. Van Horne. I think that the courts of the Territory would be governed by the great consensus of public opinion as to what was the public use. We cannot get around that. Courts ought not to be governed by public opinion, but on a question of this kind, they would take judicial notice of what the people generally believed to be of material interest for the public use. That is what I think about that, but I do not think it would have any weight any further than being merely directory.

Mr. JAMES. Is not there a distinction between the proposition put to you by Mr. Hart, where something is for a public use for the whole people, and the provisions of this section. Is not this first law in the interests of the private individual?

Mr. THURMAN. I think so; I cannot see it in any other way. If it was not so, then we would be willing to rest on section 23.

Mr. ANDERSON. I would like to ask Mr. Thurman a question. If all these matters are left to the courts, what is the use of our having a Constitution at all?

Mr. THURMAN. The matters we have got involved in this question are left to the court; I do not say that every matter is left to the court; this is, decidedly.

Mr. GIBBS. Is it not a fact that there are thousands of acres of land so situated in Utah at the present time that

we have to take our ditches across private property in order to enable us to water our lands?

Mr. THURMAN. I think that is true; and I want to say, gentlemen, in answer to that, that I have been more or less connected with the farming interests all my life, and been acquainted with farmers and have associated with them. And I have heard less complaint about this very thing than most any other thing that we have had under consideration—less complaint among farmers. They always work these things out mutually between themselves, down in our section of country, and they will do it unless we put in something here that will come back to plague us.

Mr. FARR. Mr. Chairman, I have listened with a good deal of interest, part of the time, and part of the time I have been mortified and chagrined and have all sorts of feelings to realize that this assemblage—body of men had plenty of time and all the time there is approaching to spend. Why, I have sat contented. I have tried to be contented at least, although I was aware that there were a great many that had business at home, that wanted to get through to attend to it, but it does not seem to me this Convention, the way they argue and talk, expect that our future Legislatures were going to get any men that had sense or ability, but that all the ability is centered right here. Well, now, I want to say to you, I have not the least doubt but what some of the men here will be in the future Legislature, so we must not despair that we have got all the ability here. We have got plenty of law on all these subjects that we have been talking about to-day. All these things have been contradicted satisfactorily by the courts, and why cannot we leave this matter to the Legislature? Why should we spend so much time? We might spend here day after day, and when we get through, be further apart than we are now. Why cannot we leave this

matter to the Legislature to manage? As I said before, there is plenty of law now already enacted to manage all these cases, and after we have made all the laws we can, if we could get to work and establish this section, and the courts would have it all to settle there; it has got to come there, because there won't be any person that will feel it his right to settle upon it. It has got to go to the courts, and we have got an abundance of law that if there is not—let the next Legislature make the laws. Why should we spend our time here and legislate for things that the future Legislature can provide for just as much as we can?

Mr. CHIDESTER. Mr. Chairman, I move the previous question.

The previous question was ordered.

The roll being called on the motion to strike out section 3, the result was as follows:

AYES—46.

Allen	Lemmon
Barnes	Lewis
Bowdle	Lowe, Wm.
Boyer	Maeser
Brandley	Maloney
Cannon	Maughan
Chidester	McFarland
Coray	Page
Cunningham	Partridge
Engberg	Peterson, Sanpete
Evans, Utah	Raleigh
Farr	Roberts
Francis	Robertson
Hammond	Robison, Wayne
Halliday	Ryan
Hill	Symons
Hyde	Thatcher
James	Thompson
Johnson	Thorne
Jolley	Thurman
Kerr	Van Horne
Kimball, Salt Lake	Wells
Larsen, L.	Whitney.

NOES—39.

Adams	Kimball, Weber
Anderson	Lambert

Button	Larsen, C. P.
Clark	Lowe, Peter
Corfman	Lund
Crane	Moritz
Creer	Murdock, Beaver
Cushing	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker
Emery	Peters
Gibbs	Peterson, Grand
Green	Shurtliff
Hart	Snow
Haynes	Squires
Heybourne	Stover
Howard	Thoreson
Ivins	Warrum
Keith	Williams.
Kearns	

ABSENT—19.

Buys	Morris
Call	Pierce
Christiansen	Preston
Eldredge	Richards
Evans, Weber	Ricks
Goodwin	Robinson, Kane
Hughes	Spencer
Kiesel	Strevell
Low, Cache	Varian.
Miller	

PAIRED—2.

Mackintosh	Sharp.
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The president declared the motion carried and section 3 struck out.

Mr. HART. Mr. Chairman, I move that sections 1 and 2 be stricken out, and the title.

The motion was agreed to.

The PRESIDENT. The next business is the schedule and future amendments.

Mr. ANDERSON. Mr. President, I would like to offer the following sections: "The Legislature shall provide——"

Mr. SQUIRES. I arise to a point of order. We have now stricken out not only every section, but the title to the article.

The PRESIDENT. There is nothing left. It is gone.

Mr. HART. Mr. President, I move

that the report of the committee of the whole on the subject reported by the committee on schedule, future amendments, and miscellaneous, be adopted.

Mr. IVINS. Mr. President, as an amendment to that motion, I move you that the report of the minority of the committee on schedule, future amendments, and miscellaneous, upon the question of prohibition, be adopted.

Mr. SQUIRES. Mr. President, I submit that that is hardly in order. It is the reverse of the other proposition. If we do not adopt this other report, we will have to adopt the minority report.

Mr. IVINS. Mr. President, I wish to say, I do not care to go into any debate upon this question, but I would like to show that the motion was made in that way, and I call for the roll call.

The motion of Mr. Ivins was rejected.

Mr. HART. Mr. President, examining the report of the committee of the whole, I find that the minutes do not make it clear as to what action was taken in the committee of the whole upon this matter. Therefore, I modify my motion that the majority report of the committee on schedule, future amendments, and miscellaneous, be adopted. That will make it clear then what we are voting on.

The roll being called on the motion of Mr. Hart, the result was as follows:

AYES—65.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Button	Lowe, Peter
Cannon	Lund
Chidester	Maeser
Christiansen	Maloney
Clark	Maughan
Corfman	McFarland
Creer	Moritz
Cushing	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker

Emery	Page
Evans, Utah	Peters
Farr	Peterson, Grand
Francis	Roberts
Gibbs	Robertson
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Squires
Hill	Thatcher
Howard	Thoreson
Hyde	Thorne
James	Thurman
Johnson	Van Horne
Keith	Warrum
Kearns	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

NOES—19.

Bowdle	Larsen, L.
Boyer	Murdock, Beaver
Brandley	Partridge
Coray	Peterson, Sanpete
Cunningham	Raleigh
Engberg	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Ivins	Thompson.
Jolley	

ABSENT—22.

Buys	Miller
Call	Morris
Crane	Pierce
Eldredge	Preston
Evans, Weber	Richards
Goodwin	Ricks
Hughes	Robinson, Kane
Kiesel	Spencer
Lambert	Stover
Low, Cache	Strevell
Mackintosh	Varian.

The president declared the majority report adopted.

The Convention then resolved itself into committee of the whole, with Mr. Ivins in the chair, and proceeded to the consideration of the article entitled "Corporations other than municipal."

Section 11 was read.

Mr. SNOW. Mr. Chairman, I am opposed to the substitute for this section. One reason is I do not think the authors of it will attain the object for which it was offered. I see considerable harm in it. It provides, if I understand it correctly, that every corporation that is organized shall pursue one line of business only, and if they undertake any other kind of business they would of necessity be obliged to incorporate again for that special business. Now, I am aware that in a great proportion of this Territory, particularly in the southern portion, there are a great many co-operative stores, whom this would effectually destroy. In Iron County and in Beaver County, and in nearly every city, there are co-operative stores, they have a store, saw mill, lumber mill, shoe factory, tannery, roller mill, and woollen mill, or something of this kind consolidated and combined, and if this section were to obtain and be put in the Constitution, it would effectually kill their co-operative measures and would be a source of inconvenience and great financial loss to these people that are engaged in this kind of industries. We expect and hope at some future day in our own county to establish such industries in such a manner. Now, if to obviate this we are under the necessity of incorporating separately, it will be at great expense, and I submit, Mr. Chairman, that if the advocates of this substitute are right when they say that the same board of directors could act, they virtually nullify what they wish to obtain. If the same board of directors can act in these various corporations, the same capital will be invested. The same persons will control it, and have it under their control, and all that will be gained by it will be separate corporations with increased expenses. I submit that we cannot legislate against capital in this way. That to prevent legitimate investment, they will get around it in some way. And I submit and contend

that if we endeavor to do it, in this way, we will ruin more than we will build up, and we will do more harm than we will good. I am opposed to this section for these reasons, and I think there are no good reasons why it should be incorporated.

Mr. HOWARD. Mr. Chairman, I am opposed to the substitute offered by the gentleman from Davis, and one of my main reasons is this, our laws now provide, and I presume will continue to do so, that private property shall not be held for the debts and liabilities of corporations. If that is so, and this substitute was to be passed, four or five or six men, as the case might be, get together and conclude to go into certain classes of business of three or four different kinds, and they would incorporate under those several heads, the same men would incorporate three or four or five different incorporations, and all they would have to do to make money would be to borrow a lot of money for one particular corporation that they were interested in and they might invest money in the others to advance their interests. This particular corporation that they borrow the money for the use of would break up and go out of business, and whenever those parties they borrowed the money from would look to the assets, it is not there, and the private property that belongs to them in their corporations could not be taken. I don't believe it would be right to place our corporations in any such a condition as that, and I am opposed to it.

Mr. JAMES. Mr. Chairman, I want to say a few words regarding the amendment of Mr. Roberts. I will say to Mr. Roberts that I appreciate his motives, that I know that he is endeavoring to protect the people, he is working in that direction; but I do not believe he appreciates or realizes the impossibility of his amendment to cover that which he is endeavoring to do. On the other hand, I believe that it will

produce just the contrary to what his efforts are intended for. Now, his amendment says that one corporation shall be engaged in one business solely. Now, what is the result? I want to call the gentleman's attention to what has occurred in our intermountain country under his provision, and of course it would occur under this just the same. Take for instance the milling and mining proposition of the Comstock. There the mines are under an incorporation. The milling is under a separate incorporation. The mining incorporation is controlled by the same men that control the milling corporation. Now, what is the result? They sell the stock in the mines to the public down to just a bare majority, so that they can remain in control of these mines. That stock goes out among the people. The stock in the milling corporation is not sold at all. That is all locked up. Now, what do they do? They go to work and they make a contract with themselves, between the two companies, and charge the men for milling the ore all there is in it. They take the whole of it, and now the result is the company that is controlling the mine through their having two incorporations robs the stockholders in the mining corporation. Now, that is what my friend wants to obviate, I know, and it is what every man on this floor wants to obviate, but the movement he makes gives us no advantage at all over that condition of things. Take the Co-op. as an illustration. We will say for instance they wanted to do the same thing as these gentlemen do over on the Comstock. Now, they have the manufacture of boots and shoes and the manufacture of overalls and shirts, and they have a general merchandise. Now, supposing they have three incorporations, the managers of these three incorporations say, this is a pretty good scheme, we will hold the stock of the general merchandise, we will let the stock of the boot and shoe and the

stocks of the others go out among the people, keeping barely control so that we will manage these things. They turn around and they sell material to make the same boots, overalls, etc., and charge such a price for these articles that there is nothing left in profits to any one of the three corporations, excepting the merchandise one. Now, don't you see that there is an imposition upon the public and you cannot cover it by the amendment offered by the gentleman from Davis? And I say, Mr. Chairman, that if I thought this amendment would in any way protect the public, that it would amount to anything more than an inconvenience, why, I would vote for it, but I am firmly convinced that it would only add inconvenience in the way of extra incorporations and extra meetings, and an extra expense and nothing at all accomplished.

Mr. SQUIRES. Mr. Chairman, I spoke upon this amendment when it was before the committee of the whole, night before last, and at that time I intended to call attention to something in the second section of this article, because I wanted an opinion from some of these legal gentlemen here as to its force in connection with this proposed amendment. I want to know before I vote upon this what force those words, "provisions of this Constitution," may have upon this proposed amendment.

Mr. THURMAN. I understand that it means provisions of the Constitution relating to incorporations.

Mr. SQUIRES. Well, that would be this particular amendment among others?

Mr. THURMAN. Yes; anything we adopt.

Mr. SQUIRES. Would it then require that all the corporations now in existence would have to accept this provision and shall confine itself to one single line of business, no matter how it is now incorporated, and how it is conducting its business? Now, it seems to

me, that is an important question to consider in connection with this proposed amendment, and until that is cleared up I should certainly vote against the proposition as submitted by the gentleman from Davis.

Mr. BOWDLE. I think I asked that question the other evening. I had my own opinion about it, and it was answered by some one. I do not recollect whether it was Mr. Varian or the chairman of the committee.

Mr. SQUIRES. Mr. Varian had gone home. He could not very well have answered it.

Mr. BOWDLE. The answer was that it would not affect the corporations that are already in existence. I do not think that we could make a Constitution here—fix a constitutional provision here that would compel any corporation now existing, during the lifetime of its charter that had been granted, to change that charter. I think that that is a thing that is fixed—anything with reference to the control of the corporation on general laws but not affecting that charter. I do not believe that we can change that contract. It is virtually a contract with the Territory and that corporation so long as that charter life shall last—that it shall be entitled to carry on its business according to the charter. That is my understanding of it.

Mr. SQUIRES. Then I submit that we should have two different methods of doing corporate work in this State. One company would be allowed to transact three or four different kinds of business. Another company would be restricted to a single line of business. One corporation could deal in the sheep industry and in connection therewith could buy and sell wool. One company could engage in mining and milling and another company would be restricted simply to mining, and if they wanted to put up a mill on their property to mill their own ores, they must be at the trouble and expense of another incor-

poration. I believe it would be making an unfair distinction between the business interests of the coming State, and for that reason, if for no other, I should vote against it, and I do not believe in the principle of the proposition anyway.

Mr. KIMBALL (Salt Lake). Mr. Squires, do you not believe that the original section would have the same effect?

Mr. SQUIRES. I do not, because under the original provision any business which is named in the charter can be conducted, but no other business. A company incorporates for two or three different kinds of business. They can transact all of that business under their charter, but it must be specified in their charter.

Mr. MALONEY. Mr. Chairman, I do not think it needs the opinion of a lawyer to inform this Convention that no vested rights are interfered with or attempted to be interfered with, by the substitute proposed by the gentleman from Davis. All corporations now in existence can go on and transact their business authorized under their charter precisely as though this amendment had never been incorporated, in the event it is incorporated. Now, I want to say to you, gentlemen, that the object of this is to prevent, in the future, corporations doing these things. I want to say to the Convention that the Z. C. M. I. will not be interfered with; they can go on and do their general mercantile business, and do their manufacturing business, because the substitute offered by the gentleman from Davis does not apply to them. Corporations formed for mining and milling can go on and do their mining and milling as though this article had not been adopted. I will tell you what it does interfere with. Take, for instance, the Pullman charter; they incorporated there for the purpose of building Pullman cars; instead of confining themselves to their legitimate business, they

founded and built a city; they establish waterworks, gasworks, and went into the real estate business generally.

Mr. SQUIRES. Would not they be prohibited from doing that under this section as presented by the committee?

Mr. MALONEY. Not when they are already incorporated, but it is intended for the benefit of the people in the future. So I say it does not interfere with any vested rights. Now, is it fair to incorporate a railroad company in this Territory and allow them to run coal mines, health resorts, cattle ranches, sugar factories, and everything? Why, if you do that, no private person can compete with them. I want to say to the gentlemen of this Convention that this does not interfere with the Utah Company in any particular, but it is to prevent, as I say, the blanket corporations for the purpose of monopolizing all the interests and business of the Territory, all enterprises, under one head. I say it is wrong, and the amendment ought to be adopted, and I will vote for it.

Mr. JOLLEY. Mr. Chairman, I am not aware where the gentleman from Weber got his change of heart, being he is one of the sub-committee. I will state that I am not in favor of the substitute. I was up in the committee room and in the sub-committee on this article, and we talked the matter over—this single theme arrangement, and we felt as though it would curtail capital, that there were many institutions that have been established in this Territory for many years in the past that it would cripple, and that they were so small, yet they have branches that would not pay them to incorporate into two or more corporations. This matter was talked up, and I will state here, Mr. Chairman, that nothing was put in this article but what the sub-committee fully agreed upon. I was not there at the presentation to the committee in full, but I supposed that they had all agreed upon it and

we discarded the one and accepted the other—section 11, as it now reads, as it was broadened; and it would encourage and would allow the present institutions to go on with their branches of business and not cripple them. I consider, Mr. Chairman and gentlemen of the committee, that we should legislate here for the benefit of the whole, for the benefit of the men of wealth, as well as those that have not got wealth. As was stated to-day here, by some gentlemen upon the floor, that the delegates of this Convention were not all wealthy men—they are not all wealthy men, but we should consider that that is most beneficial to both parties. Therefore, I trust that the substitute will not prevail, for it will work many hardships, and curtail the interests of the capitalists that we want to invest and to be encouraged in our Territory and in our future State.

Mr. RICHARDS. Mr. Chairman, I hope the motion to adopt this substitute will not prevail. I have not heard any good reason assigned why it should be adopted, and I think that a great many good reasons can be assigned why it should not be adopted. The section as it stands is sufficient protection against any harm that might result from silence in the Constitution on this subject. Why should not a corporation be organized to transact more than one kind of business? I have heard no good reason assigned for it. I do not believe that any good reason can be assigned why that should not be so. The proposition that is offered is an unusual one, and one that might result in a great deal of injury. Now, it has been said that the adoption of any article or provision in this Constitution cannot interfere with vested rights; that is true. But what are vested rights? That is the question. The gentleman from Weber, a member of the committee on corporations that reports this article, in-

timates that it would be a vested right to interfere in any way with the conducting of business as now organized. I am not so clear about that. It is true that if they had been incorporated under a law that did not permit amendment or provide that any modification could be made in the laws creating them or regulating them, it might be so, it might be an interference with that which might otherwise be regarded as a contract; but the supreme court of the United States has held that Congress may interfere with charters that have been granted and may change them in this Territory, and if Congress may do that, why may not the State do it, as a State? And it seems to me that there would be a great danger in this provision in section 2 that has been referred to, that it might operate prejudicially on corporations that are now in existence. But, independent of that, whether that be so or not, it seems to me that there can be no good reason why this amendment should prevail. If the articles of incorporation set out the purposes for which the corporation shall be created, and it shall only be permitted to do such business as is specified in the articles, then the public are protected. They understand and comprehend at once what is expected of the corporation and they know what they are dealing with.

Mr. JAMES. Mr. Richards, you have observed in section 2 that it says in order to benefit by future legislation, they shall accept of the provisions of this Constitution. Would not that practically compel every corporation, or else they would be left in a position so they could not have the benefits of future legislation?

Mr. RICHARDS. Well, I will not express a positive opinion on that subject, because it is a question that I think even lawyers might differ upon, and I do not believe in off hand opinions; but I do believe this, gentlemen, that we are legislating here in the fun-

damental law, that we ought not to enact anything that is ambiguous and uncertain and that we do not know what it means; that is what I say, and the great objection that I have in this article is that it is so legislative to its character and not fundamental that the greater part of it has no place or ought to have no place in the Constitution of this State. The chairman of the committee will excuse me for speaking in this emphatic way. I say it with no disrespect to the committee, but it does seem to me that the committee has fallen into the error of placing into this article a great deal of matter that ought never to enter into the Constitution of the State, because it is not necessary. Now, I make no particular objection to the provision as it stands in the original article here in section 11. I do not believe that that is necessary, but still I do not object to it, because I do not see that it will cause any particular harm to let it remain there. It simply encumbers the Constitution with something that might be dispensed with, but there are provisions in this—

Mr. SQUIRES. Would not that section, as it is, be a certain sort of protection to the stockholders of a company who might not be interested in the management of it? They would know by that that no other business could be transacted except that authorized by the character—no speculation or gambling business.

Mr. RICHARDS. That would be, but for the fact that it is a rule of law that is absolutely inflexible that if they were silent the law would construe it to mean the same thing; that is to say, a corporation cannot in the very nature of things do legally anything more than is specified in the articles of incorporation. So that if we were entirely silent upon that question, the protection is absolute and complete upon that point. So this is simply a declaration of what the law is now.

Mr. SQUIRES. I understand, Mr.

Maloney claims the Pullman Company has been doing this and doing it legally. They were chartered to build Pullman cars and they were building cities.

Mr. RICHARDS. I do not know what the charter of the Pullman Company is, but I undertake to say that if the Pullman Company was chartered for the whole purpose of manufacturing railroad cars and they undertook to build cities and do the other things suggested by the gentleman, as I understood the company did do, it was acting ultra vires and could have been stopped from doing those things. The state could have interfered, the stockholders could have interfered, and the matter could have been stopped; but we cannot in a constitution legislate in such a way as to prevent people from doing things that are unlawful and illegal. That is not authorized by law. That we cannot do. We can lay down some fundamental principles, and as I say, I find no fault with this section, because it is simply a declaration of law that exists independent of this.

The committee thereupon took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee re-assembled at 2 o'clock.

Mr. ROBERTS. Mr. Chairman, it is not my purpose to detain this committee in the consideration of this question, as I believe that the mind of the committee is made up as to the action it will take in regard to the substitute, and I am not about to launch a speech of any considerable length at least. But I do wish to say, sir, that in drawing this substitute I do desire if possible to present something to this Convention that would alleviate the prospective difficulties and evils that might grow up in our new State by reason of incorporated power. It is quite possible, sir, that the principle in this substitute is impracticable and may not reach the evil at which it is leveled, and

I am almost in despair at the prospect of drafting anything that would be equal to the occasion of resisting the evils that grow out of corporate powers. And it is quite possible, sir, that we shall have to rest our case ultimately upon the spirit of the people, which I trust shall be of that nature that will lead them never to sit quietly down while corporate power rivets collars upon their necks, and brands them for its own. Many years ago, when perhaps I was more impressionable than I am now, I read with burning interest the great debates that occurred in the British house of parliament on the trial of Lord Hastings, wherein inquiry was made into the proceedings of the East India Company, and I became satisfied then that if there was one thing which more threatened the liberties of a nation than another, it was the organization of just such companies as this, just such corporations, which could grow in dimensions until they could be compared only to some huge octopus with power to throw a tentacle over every possible resource of the country, crush out all competition, and enslave the people. I saw, during my reading of those interesting cases and arguments, the truth of the old adage that corporations have no bodies that you can kick, and they have no souls that you can tempt, and they are the most difficult things to contend with that ever confronted our civilization. My attention, however, sir, has been called to the last section of this article on corporations, and I believe that that will mitigate much of the evils that exist to-day in regard to corporate powers, in that it will prevent, if properly executed by the officers, and if proper laws shall be drafted in pursuance of its provisions by the Legislature, combines and trusts to control production and the prices thereof. I must confess that I did not discover all the virtues that are in that section, and this will make it easy for me

to do what I intended to do before I got through, namely, withdraw the substitute that I offered for section 11, if my second will consent to that. Certainly, sir, it was not my intention to draft any measure or urge any measure upon the Convention that would look to the destruction or look to impairing small corporations that are engaged in the small manufacturing establishments. The only object that I had in view in drafting this section was to prevent great corporations with millions and perhaps scores of millions behind their backs invading our Territory, laying a paralyzing hand upon the resources which, as I think, ought to be left for the people.

My friend from Ogden this morning called attention to the evils that accrue out of the corporation known as the Pullman manufacturing establishment, the evils that it brought upon the people of Illinois, the abuse of its powers, threatening for a time civil war in our land. Outwardly all was fair and beautiful, and yet, sir, when the blanket was lifted, and the inside workings of its operation could be observed, it was found to be like the gilded sepulcher, fair to the view but inwardly full of dead men's bones and rottenness. The tourist had been charmed with the prospects surrounding the workmen at Pullman, but upon a close investigation of its affairs, instead of being a benefit to the workingmen it was discovered that it was but an engine of oppression and held the fortunes of its employees in its own hands. It was to prevent anything of this kind arising in our State that I was anxious that something of this kind as indicated in the substitute should be provided, not to interfere with small manufacturing establishments. And I must think that the construction placed upon what is one general line of business has been drawn altogether too narrow, as I take it in these debates; and yet, sir, I must confess that I have been convinced that

this measure would be impracticable in reaching the objects for which it was intended, and therefore if the second to my motion does not object, I will withdraw the substitute.

Mr. THATCHER. Mr. Chairman, I would call the attention of the committee to section 1, that corporations may be formed under the general laws, but shall not be created by special acts. Now, section 11 might leave the construction that corporations should be formed in this section under special acts, and for that reason I would propose, after the word charter, in the third line, "as specified in its articles of incorporation."

Mr. RICHARDS. Mr. Chairman, I think I comprehend the object of the gentleman's amendment, and if it were necessary I should concur with him; but the word charter, as used there, I think has a clear signification only of the means or article by which it was incorporated, whether that be by agreement of incorporation, or articles of incorporation. Whatever the article may be called, is the charter. That would be the legal interpretation of the term, I think. I do not think it would be held to mean a special act.

Mr. THATCHER. I am a little inclined to think that section 7 would have a doubtful construction, but inasmuch as special acts are prohibited in section 1, I think that this section should be so amended as to make it clear that no special act of the Legislature was necessary.

Mr. MALONEY. Would not the word "specified," right after the word authorized, meet your amendment?

Mr. THATCHER. Not clearly, no, sir; I do not think it would. Of course, I am not particular on this, but I think it would save a good deal of trouble.

Mr. SQUIRES. Why not strike out the word charter and introduce "articles of incorporation?"

Mr. THATCHER. I have no objection to that at all.

Mr. SQUIRES. I move, then, that it be so amended.

Mr. CANNON. Mr. Chairman, the object desired to be attained by Mr. Thatcher's motion, and also by Mr. Squires's, I think we all agree with exactly, but from my understanding of the 'interpretation placed upon the word charter by the legal gentlemen who have spoken—I think the word charter is broader than articles of incorporation. It might possibly embrace more. For that reason, I see no reason for the change.

Mr. EVANS (Weber). Mr. Chairman, it would seem to me better to leave "charter" in there, and add "articles of incorporation." If an amendment would be in order I would make that as an amendment. Then, if the Legislature does grant a charter, such as they sometimes do—

Mr. JAMES. I think, Mr. Chairman, that will cure the dissatisfaction.

The amendment offered by Mr. Evans, of Weber, was agreed to.

Mr. RYAN. Mr. Chairman, I think I realize the object of the committee in introducing that section, but I do not see that it accomplishes anything. I move that the entire section be stricken out.

Mr. ROBERTS. I wish to ask the chairman of this committee if there is any other part of this article that provides that the purposes for which the corporation is organized shall be specified?

Mr. JAMES. No, sir; not that I know of.

Mr. ROBERTS. Then, Mr. Chairman, I am most heartily opposed to striking this section out, because, as was developed in the debate here this morning, in the argument of the gentleman from Weber (Mr. Maloney), it appeared that the great corporation at Pullman was incorporated to do one thing, but went outside of things specified in its charter and engaged in other enterprises. I believe, sir, that whatever else we shall

do in regard to corporations, we at least ought to insist that they shall specify the business that they are going to engage in, and that they ought to be confined within those specifications, and believing that this would be some little protection to the public at least in the way of announcing what business this corporation is going to engage in, and in order that we might know something about its limits, it should expressly say what its business should be, and it ought to be confined to just what it has expressed in its charter, and not give them carte blanche to engage in everything under heaven, without giving the public notice that they are going to do it. You leave it now so that a corporation can engage in any number of lines or pursuits; at least let us have it understood that they can only engage in those pursuits that they specify in their charters. For that reason I shall object to striking out this section.

Mr. RYAN. Mr. Chairman, I think the time is coming when corporate power should be restrained, and I am in favor of that. I am in line with that and I was in favor of Mr. Roberts's amendment as being the best of the two. However, I do not think that section 11 will accomplish any good or accomplish the end for which it was aimed. I think if we ever restrain corporate powers, it has got to be in other directions, and possibly the best way would be to scrutinize their first charter or have a power or a different source from which they should emanate. Any one can secure a charter by paying a few dollars and specifying the purpose for which they are organized, and I do not see as section 11 accomplishes anything, and, therefore, I was willing to see it stricken out.

Mr. JAMES. Mr. Chairman, this section took up a great deal of time in the committee. It took up more time, not only in the committee, but in seeking information from sources that the com-

mitteemen felt were safe to advise with, and I will say to you, gentlemen, that four of the most eminent attorneys in this city approved of that section, as it is in that article, and three of them are corporation attorneys. They said that we should have something that should limit the corporations from extending all over the world and doing anything they pleased. We should say that they should not go into business that they did not expressly set forth in their charter.

The motion was rejected.

Sections 12 and 13 were read.

Mr. JAMES. Mr. Chairman, I wish to strike out the words "tonnage and cars," and add in lieu thereof the words "and freight." The reason I ask to strike out the word cars is because I have learned that in the interchange between railroads and cars an injury might be done one road if it had to carry those cars when it had its own cars in which to carry the freight.

The amendment was agreed to.

Mr. THATCHER. Mr. Chairman, I would like to call the attention of the committee to line 5, where it provides for carrying passengers without delay. I move to insert the word "unnecessary," between the words "without" and "delay."

Mr. RICHARDS. I desire to offer an amendment to Mr. Thatcher's amendment; transpose "discrimination," and place it after the word "without," so that it will read this way, "without discrimination or unnecessary delay."

Mr. THATCHER. I will accept that. The amendment was agreed to.

Section 14 was read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word transportation, in the fifth line, the words, "under similar circumstances and conditions."

Mr. JAMES. Won't you accept the same amendment then, in line 13, so that it will be consistent within itself?

Mr. VAN HORNE. Mr. Chairman, I

move a substitute for section 14, which I have drafted in accordance with the inter-state commerce law, as follows:

No railroad or other transportation company or common carrier shall discriminate in the transportation of persons or property between persons or places, or in the facilities for transportation, or any charges for like service in transporting like kinds of property under similar circumstances and conditions.

I move its adoption, as a substitute for section 14. I wish to call attention of the Convention to the fact that the substitute provides for a case that is not provided for in the original section, which is what might possibly be called a discrimination on account of the quantity of freight as distinguished from the character of freight. The substitute provides directly in line with decisions on the inter-state commerce law against discrimination, in the four ways in which discrimination is possible, namely, between persons first; second, between places; third, in facilities of transportation; and fourth, in charges for service in transporting property or persons under similar conditions and circumstances. It has been decided that those four classes cover all classes of discrimination that are possible. That being the case, anything further than a general provision that no discrimination of that kind can be made, it strikes me would be out of place in a constitution. Any detail that would be necessary to go into should be properly gone into by the Legislature. As an illustration of this, the original section provides only for discrimination in classes of persons; suppose a person had a sack of sugar to ship and another person had a train load of sugar to be shipped to the same point. It would be fair to say under all business principles that the person shipping a train load on account of the the greater rate that he should pay in the aggregate, or less trouble of deliver-

ing, should be entitled to a better rate of the shipment.

Mr. RICHARDS. That is exactly the point designed to be covered by the amendment I offered.

Mr. VAN HORNE. I understood that it was designed to be covered by that, but I think that the substitute covers it perhaps a little more clearly than the amendment would. In like instances a man that had a hundred bushels of wheat to ship where it would only make part of a carload could very properly be charged on account of the greater cost of handling the additional rate for shipping that wheat to the same point that a man would be charged who shipped a full carload, or a full trainload. In like manner the owner of a mine who attempted to ship two tons of ore to have it separated and kept separate from other ores shipped in the same car, would impose upon the railroad company a greater duty of carrying his property from intermixture with others than would be imposed upon the railroad company in case he shipped the full carload of ore, and this amendment covers that distinction between quantity and class.

Mr. JAMES. Mr. Chairman, I want to say a word or two to this Convention as to why this section was written and placed in this article, and since Mr. Richards has amended it as he has, I believe it covers the ground. Now, I will say the reason why that section was written in the form that it is in is this: Information came to this committee that it cost one hundred dollars more a car to ship a carload of freight if it contained twenty tons, from Omaha to Eureka than it did from Omaha to Park City, which was a distance of over one hundred and fifty miles farther to haul it. Now, gentlemen, I call your attention to that condition of things and ask you if it is true, and I think it is true, because I got it from reliable

sources, if we should not do something to regulate conditions of that kind? Then, I call your attention to the fact again, as another reason why that section was written in the form it is in, is because the railroad company sees fit to make Eureka City a common point in shipping out, but not a common point in shipping in. Now, gentlemen, it is a very queer thing when it is a downhill haul from Eureka City to the valley below, that it is a common point out, and a less rate is charged for freight out of that town than to haul it into it, when it is an uphill haul to haul it in. Now, I want to say to you, since Mr. Richards has amended this in the form it is in, it covers the whole ground. The reason where it was weak before is just what Mr. Van Horne has raised on the floor, that you might charge as much for small quantities as you could for large quantities. The amendment of Mr. Richards obviates that point. Now, Mr. Van Horne's section is one that I have not had time to give thought to. The section for the purpose that it was written has had due consideration and given a great deal of time and thought, and I believe as amended now, it is what we need.

Mr. VAN HORNE. I just want to call attention to one fact, the prohibition there as to discrimination in places covers the very point that was brought in by the gentleman speaking for the report as amended or proposed to be amended.

Mr. JAMES. Does your section cover the ground to hauling in and going out—that discrimination, as it is going on now?

Mr. VAN HORNE. I will ask the gentleman if he does not think that under similar circumstances and conditions does not fully cover that?

Mr. JAMES. I ask you if your section covers that?

Mr. VAN HORNE. I think so.

Mr. RICKS. Mr. Chairman, I hope the amendment will prevail, for the

reason that I think it will cover exactly the ground covered in the original, and I do not believe the original covers the ground Mr. James thinks it does, that is covered in the inter-state commerce law, and I very much question if we can ever legislate in this State to cover the objections he desires to cover—the ore or anything else coming from other stations that must come under congressional law, as it does at the present time, and I think the amendment of Mr. Van Horne covers every point that is necessary to cover.

The question being taken on the adoption of the substitute proposed by Mr. Van Horne, the committee divided and by a vote of 50 ayes (noes not counted), the substitute was adopted.

Mr. CANNON. Mr. Chairman, I will move to amend by inserting "quantity" after "kind," and make it read, "kind and quantity."

Mr. RYAN. Mr. Chairman, I hope the amendment will not prevail. I do not think we should limit that as to quantity. The circumstances and conditions will limit that enough. Railroad companies are in the habit of discriminating too much in the interest of large shippers—powerful corporations, and that only intensifies that evil. I hope it won't prevail.

The amendment was rejected.

Mr. ROBERTS. Mr. Chairman, I move that section 14 be stricken out. I find that section 13 provides that all railroad and other transportation companies are declared to be common carriers and subject to legislative control. Now, sir, the substitute that the committee has adopted, introduced by Mr. Van Horne, seems to be so uncertain as to what points it does cover and what it does not cover, that I doubt the propriety of adopting a section about which the Convention seems to have so much doubt, or to be in so much uncertainty in regard to, and it seems to me, sir, that all these matters enumerated in the original section and also in the

substitute offered by Mr. Van Horne, may be properly left to the Legislature, and those are my reasons for moving to strike out the entire section.

Mr. BOWDLE. Mr. Chairman, I do not know; I might eventually come to the same conclusion, but not having the substitute a long time to think about it particularly, it looked to me like it was all right. I came to the conclusion that I would let it go to the third reading and then we will have the whole matter before us and we will know better—at least I feel I will know better what I want to do in that regard, and I don't feel like taking action on it now.

Mr. RICHARDS. Mr. Chairman, I am in favor of striking out. I am fully in sympathy with the idea that railroad companies should be required to do all that is prescribed in this section. I want that understood to start with, and perhaps more, and there is where the danger lies in this section, as I view it; that is to say, by section 13, all railroad companies and other transportation companies are declared to be common carriers subject to legislative control, and all railroad companies shall receive and transport each other's passengers and freight without discrimination. Now, that is provided for in section 13. Now, I believe that the Legislature ought to have full power over this subject, and when we commence to enumerate in section 14, certain things that shall be done, there is danger that when the courts come to construe it, they will say that the Legislature is limited in that matter to those things that are enumerated in the Constitution, and if we leave this section out, with section 13 standing as it is, it gives the Legislature full power over this subject. We can legislate upon it from time to time as the exigencies of the case may require, and I believe it would be very much better for the Constitution and very much better for the people, and would carry out the

wishes and intention of this Convention to leave that section out.

Mr. VAN HORNE. Mr. Chairman, the intention of offering the substitute was directly in line with the purpose of not specializing in this Constitution the methods of discrimination, but leaving it general, under the construction of the inter-state commerce act and the courts of the United States, of the four classes of discrimination that were possible. If there is to be no section corresponding to section 14, I am thoroughly of the opinion that sections 1 and 13—I believe it is, cover the whole question and leave the Legislature the full power to regulate, control, limit, and restrict the action of corporations. Section 14, as introduced by the committee, strikes me as being dangerous in the line that it specializes too much. The substitute specializes less, in that it covers only the four species of discrimination that have been passed upon under the inter-state commerce act, and it has been decided that those four classes cover all kinds of discrimination. If there is to be no section corresponding to section 14, I shall support the motion to strike out.

Mr. JAMES. Mr. Chairman, I feel a good deal like Mr. Roberts felt about this thing at the present time, that you had just about as well strike this out, but at the same time, Mr. Chairman, as if there was a very serious mistake being made here. I do not know why gentlemen are talking so much about legislation and about the seriousness of our trying to regulate something. Now, if any other gentleman can show me in this section anything that would create a hardship, that would injure a corporation, in any way in the world, I would say, for heaven's sake let us amend it and let us strike it out, let us get rid of it; but, Mr. Chairman, there is more that can be said regarding this thing. You observe that they were very careful to get out that along where it says, hauling from and to. Now, gentlemen

of this Convention, why should it be? Why should it be that a ton of freight or a carload of freight should cost the people a hundred dollars more in Eureka than it does in Park City? Now, why has the Legislature long ago not corrected those things? Did the people vote for us to come here and say that the Legislature can do these things and all we have got to do is to sit here and look nice and feel happy and draw our pay and go home? Now, here is another proposition. Here is our little Utah Central railway that was built from this town here by John W. Young, to Park City. When that little railroad got to Park City, what condition did he find? He found, sir, four dollars and a half a ton freight from Park City to the smelters in this valley. What was the result? The freight was put down to two dollars and a half; the round trip fare from here to Park City was seven dollars; what is it now, after the little road was built up there? Four dollars and a half. Did any man make anything out of that road? Was it not solely for the benefit of the public? Have not the people that put their money in there forfeited every cent of it and has it not gone into the hands of a receiver? And why? Because the railroad saw fit to say that we will not receive your freight, we will not take your freight here in Salt Lake City and haul it up to Park City. We will not take your freight at Park City and haul it down here and allow it to be transferred over the Union Pacific or the D. & R. G. railway company. Now, gentlemen, are you going to say, "Oh, we will allow the Legislature to regulate all these things?" We cannot do it, because it is tramping upon the roads. Still those things go on. I say you might as well strike it out, gentlemen. You have taken its teeth out. When the provision was put in that section that an equal charge will be made in each direction and the charges should be indiscriminate, then was when the

work was done that created the great howl that went up all over this city.

Mr. KIMBALL (Salt Lake). Has the committee conferred with the business men's association—the chamber of commerce, regarding this?

Mr. JAMES. No, sir; we wrote them a letter, and had some correspondence from them regarding it, but there has no information come from them in regard to it.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I will state that only recently the manufacturers and jobbers of this Territory have formed an organization, the special purpose of which is to confer with the railroad companies and regulate the tariff. This discrimination has become so painful and extensive that it was necessary for the manufacturers and jobbers to combine together against the railroads on this proposition, and I believe if we strike this section out and leave the matter for the time being, that they will confer with the next Legislature, and arrange a section that will meet the emergency.

Mr. VAN HORNE. Mr. Chairman, there is a principle of law, that the expression of one thing is the exclusion of another. The lines 10, 11, 12, and 13 of the article as drawn, we find that charges not exceeding the charges of transportation, or persons and property of the same class, in the same direction, under similar circumstances and conditions, to any more distant station or landing. The mention of in the same direction, under that principle of law, allows the very thing that the chairman of the committee was claiming as a wrong here—a discrimination when it was in another direction, because mentioning that they were prohibited from making that discrimination in one direction by exclusion says that they can make the discrimination in another direction. And wholly in sympathy with the purpose of the committee in regulating these discriminations, it seems better to me

to make the general classes of discriminations as to persons, places, facilities, and charges, limited only by similar conditions and circumstances, and leave the Legislature to interpret the matter. I believe the wrong complained of by the chairman of the committee, of one railroad company refusing to receive the freight of another railroad because it was in competition, is fully covered by section 13, which provides that all railroad companies shall receive and transport each other's passengers and freight without discrimination or unnecessary delay. The other was devoted towards leaving general the power of the Legislature, and not, by the mention of particular things, make the constitutional prohibition against the Legislature, saying that discriminations in other respects should not be prohibited by them.

Mr. EICHNOR. I would like to ask Mr. James a question. Section 14, as it originally appeared in the article, was taken from the constitution of California, and from the constitution of the state of Washington. In California that section has been in existence since 1879, when the constitutional convention framed a constitution of that state, the last time. Do you know how this section has worked in the state of California?

Mr. JAMES. No, sir.

The motion to strike out was agreed to.

Section 15 was read.

Mr. RICKS. I would like to ask the chairman of the committee what he means by that?

Mr. JAMES. It is put in there for this very purpose: When this Territory grants franchises, and gives rights to a railroad company, building in a similar direction, to reach the same point, that they shall not then combine their interests and deny the State of benefits that should come from competing lines by consolidating their interests; after they have benefitted by giving them

those rights, they expect them to do according to their agreement with the State.

Section 16 was read.

Mr. VAN HORNE. I would like to ask the chairman of the committee what are the provisions of the article on revenue and taxation? Do they not provide for the taxation of the property mentioned in this section? If so, it is a duplication of the action already taken by the Convention.

Mr. JAMES. Mr. Chairman, I am not familiar enough with the article on taxation to say. I suppose probably it does. That is my recollection.

Mr. RICHARDS. Mr. Chairman, I move to strike this section out, not because there is anything in the section that is objectionable at all but because it is simply a reiteration of what we have had in the article on taxation and a statement of what would be the law in the absence of any statute at all or any provision. The rolling stock of the company is personal property. It has been so held by every court in the land and everywhere, and it is liable to taxation, and subject to execution, and we cannot in this Convention enact everything that ought to be said on the subject of the management and conduct of railway companies.

In reply to the suggestion made by the chairman of the committee—he seems to think that there is unnecessary stress being laid upon the fact that this legislation, or that certain provisions in this article are legislative and ought not to be included. Now, I do not make this objection simply because it is legislative, although I think that that alone is sufficient reason. I think we ought not to encumber the Constitution with detailed matters—matters that ought to be on the statute book and could be changed from time to time. We ought not to duplicate these things, and when we have provided substantially for this in the article on taxation, as to what property should

be taxable, etc., I think we ought not to enumerate it here, and then as I have said before, there is danger of, by enumeration, limiting the power of the Legislature when we do not intend to. I think that these things ought to go out, and it is not because I have any objection to the matter itself, but I think it belongs on the statute books instead of in the Constitution.

Mr. MALONEY. Mr. Chairman, I do not object to the words "taxation and," coming out in line 4 of section 15, but I do object to the other going out. This section was fully discussed in the committee. We attempted to make one complete article on incorporations other than municipal. The committee worked earnestly and long for this object to be attained, and I think we have attained it. Now, the very fact that other constitutions in many of the states have made provision with regard to the rolling stock and other movable property belonging to any railroad company or corporation is sufficient evidence to my mind that the section ought to remain entirely as it is, with the exception of the words "taxation and."

Mr. ROBERTS. Mr. Chairman, before voting to strike out this section, I should desire to know whether it duplicates any provision in the article on taxation and revenue. So far as I am able to discover there is no duplication in the article on taxation and revenue.

Mr. CREER. Section 11.

Mr. ROBERTS. The section as I remember it, however, read by the gentleman, would make the personal property subject to taxation, but it does not make it subject to execution and sale, and I desire for that reason, sir, to say that it is not an entire duplicate, one of the other. There are provisions in this that are not to be found in the other, and for that reason I shall vote to retain this section.

Mr. RICHARDS. I would like to ask the gentleman from Davis a question,

and that is if he knows of any case where any railroad property has ever been made exempt from execution?

Mr. ROBERTS. I shall have to confess that I have no knowledge of that kind. I am not a lawyer, not engaged in that kind of transaction, and therefore am put at a disadvantage in that matter. As suggested by my friend from Weber, who comes gallantly to my rescue, as a voice behind me, we never want the Legislature to have the power to exempt the property from execution. I want it fixed, sir, that these railroad corporations cannot escape either taxation or having their property subject to execution and sale where it becomes necessary to meet just taxation, and in order that we may be dead sure that we have got them, I propose to vote for retaining this article.

Mr. SMITH. Mr. Chairman, it seems to me that the section will give no strength to the section already in the law on taxation. Everything that is possible to reach, in any way, shape or form will be reached under that.

Mr. VAN HORNE. Mr. Chairman, I want to call attention of the gentleman from Davis and members of this Convention, that in section 9 of the article on legislative the Legislature is forbidden to grant to an individual, association, or corporation any privilege, immunity, or franchise whatever. The exemption of property of a railroad company from taxation will be fully covered by that section, beyond question. If that be true—if the general law also be true, as announced in our article on revenue and taxation, that such companies must pay taxes on all property owned or used by them, the Legislature is forbidden from granting them any immunity. The section, as it seems to me, consists of nothing but declaring that the rolling stock and movable property of a railroad company shall be held as personal property, and that is all that is done by the law. The immunity would also extend to the

proposition that their property should not be subject to execution. It would be an immunity guaranteed by the Legislature to say that the rolling stock of a corporation would not be subject to execution.

Mr. THURMAN. Will you please read, if you have got it before you there, the section that you referred to about the immunity?

Mr. VAN HORNE. Section 9; that is the prohibition of the Legislature passing special laws.

Mr. THURMAN. That relates to special law. That is a different proposition.

Mr. SQUIRES. They might do it by a general law.

Mr. VAN HORNE. The same proposition is contained in the same article against any special law where a general law would be applicable. Are we to understand the gentleman as fearing that the Legislature of this Territory should ever pass a general law that all the movable property of the railroads should be exempt from taxation or should be exempt from execution and sale, on the judgment of a court?

Mr. THURMAN. It might depend on whether all the legislators were railroad men, or not. If they were, we might get just that kind of a law.

Mr. VAN HORNE. It seems to me that the general provision that the Legislature may control the creatures of the State—the corporations within it, is sufficient, taken in connection with the other, that they must pay taxes on that, and that the Legislature is not going to grant any immunity by general law to all the railroad corporations in it, that their property shall not be subject to execution and sale.

Mr. JAMES. The gentleman either does not understand this proposition or else does not want to meet it. We all know very well that the rolling stock may belong to one company and the railroad to another company. We are

trying to cover the whole, that is why the section is put in the shape it is.

The motion to strike out was rejected.

Mr. VAN HORNE. Mr. Chairman, in accordance with the amendment suggested by Mr. Maloney, I move to strike out the words "taxation and," in line 4.

Mr. MALONEY. Mr. Chairman, since my attention has been called to it, by the gentleman from Davis, I think that ought to remain there.

Mr. SQUIRES. Mr. Chairman, I am opposed to the motion.

Mr. EVANS (Weber). Mr. Chairman, I seconded the motion to strike out simply because in my judgment it was fully covered in the article on revenue and taxation. Otherwise, I should not vote to strike it out.

The amendment was rejected.

Sections 17 and 18 were read.

Mr. HART. Mr. Chairman, I move to strike out section 18. The Legislature has that power.

Mr. MALONEY. Mr. Chairman, I object to it. I want a constitutional basis for it here in the event that the future Legislatures of the State may find it proper to establish a commission.

Mr. RICHARDS. Would not the Legislature have the power to appoint this commission without the section?

Mr. MALONEY. It is very possible, but we want a constitutional recognition of the commission. They have it in nearly every state in the Union.

Mr. RICHARDS. Is there any possible question about the power of the Legislature to do it?

Mr. MALONEY. I doubt it very seriously. Therefore, I insist that it remain in.

The motion to strike out section 18 was agreed to.

Section 19 was read.

Mr. VAN HORNE. Mr. Chairman, I move to insert the word "if," at the beginning of the paragraph.

The amendment was agreed to.

Mr. VARIAN. I want to ask the committee if it is necessary to put into the

Constitution a declaration that the State of Utah has jurisdiction over all property within the State? If not, what is the use of spending money to print it? I move to strike it out.

The motion was agreed to.

Section 20 was read.

Mr. RICHARDS. I desire to ask the chairman of the committee what the purpose of this section is and what it means.

Mr. JAMES. It is to avoid such things as a year ago of the Pinkertons. That I guess will explain it so as to save time. Just say the Pinkertons.

Mr. RICHARDS. I would like to have some gentleman explain to me what the meaning of the words, "without authority of law," as used in that connection. If the chairman of the committee or any other gentleman will explain that I would be glad.

Mr. JAMES. Well, I suppose it is meant to cover the proposition that they might bring them if they got permission of the governor under a legislative act.

Mr. RICHARDS. I move that the section be stricken out.

Mr. SQUIRES. Mr. Chairman, I do not think the chairman ought to give Mr. Richards, he being a corporation attorney, the information he needs that will show him how to act upon this section after it is adopted.

Mr. THURMAN. Mr. Chairman, I hope this section will not be stricken out. I think it is necessary. "Without authority of law," not only means the authority of the governor of this State, who should at least be the executive head, but the President of the United States, to protect the property of the United States, might have the right to send troops in. That is, by authority of law, but outside of that authority, some one charged with the official duty, the committee thought that no private company or individual had a right to import an armed body of men into the State to protect the State or the people

of the State against domestic violence. We think we can do that ourselves—or the property, as suggested, of any individual. We think the State is able to do that. If not, we have no business organizing as a State.

Mr. SNOW. Can not the Legislature provide this prohibition and also state when that authority can be exercised?

Mr. THURMAN. The Legislature can provide for just about everything that we have got in this article, but for fear they will not do it, we propose to do it here if we can. That is the idea.

Mr. EICHNOR. Mr. Chairman, I desire to amend section 20, by striking out all after the word "violence" line 4, and inserting in lieu thereof, "except upon the application of the Legislature or the executive when the Legislature cannot be convened."

Mr. THURMAN. Do you desire to exclude the right of the President of the United States to do that if necessary to protect the property of the United States?

The amendment of Mr. Eichnor was rejected.

Section 21 was read.

Mr. ANDERSON. Mr. Chairman, I move we strike out this section.

Mr. VARIAN. I second the motion. This section—certainly the intent of the committee could not be as this section is expressed. It would deprive a large number of citizens of the privileges of citizenship. In terms it simply says, that no man who is employed by a corporation, company, or association, doing business under or by virtue of a municipal charter or franchise, may hold any municipal office or employment. I presume the intention was to prevent their holding certain classes of municipal offices, but it does not express that. It says he shall not hold any employment therein. I do not know what it means.

Mr. SQUIRES. Mr. Chairman, as I see they have ruled my friend, Mr. Richards, from being a candidate for any-

thing this fall, I second this motion to strike out.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to striking out that section without any qualification.

Mr. VARIAN. Let us amend it then, to make it clear.

Mr. EVANS (Weber). Well, then, let us amend it before we strike it out. The design of that section is good. It may not be worded just as it should be, but it is designed to prevent a good many evils which exist, and they are evils, too, which exist right under our noses daily. Men belonging to corporations, having stock in them, and controlling them, are members of the city council.

Mr. VARIAN. I agree with that.

Mr. EVANS (Weber). And they sit right in the city council, and passing ordinances and resolutions contracting with themselves with respect to the price which will be paid for various things—the electrical company for one. We have had an instance of that kind lately, which is shameful to permit, and many of the best authorities and economists in this city have called attention to this thing, and asked that this Constitutional Convention correct it. We had a friend here—one of our fellow delegates, who stated upon the floor of this Convention himself, that just such a condition of things existed with him. It is not right, in principle, so I shall oppose the striking out of this section.

Mr. VARIAN. Mr. Chairman, I move to amend by striking out “or employment.” Let us perfect the section before that motion to strike out is carried. That will make it clearer. As it reads, certainly it would prevent an ordinary servant of a corporation from having any employment in the city. It is not intended, I am sure, to have it go that far.

Mr. VAN HORNE. Mr. Chairman, I think the word “therein” should be included in the motion to amend. I move to amend by striking out the last three

words, “or employment therein.” The reason I do that is that “therein” could properly be held to refer to the State and not to the municipality, and that a man who was an agent or servant or employe of a corporation, working under a municipal charter, should not hold any municipal office in the State, it seems to me would be further than the committee intended.

Mr. RALEIGH. Mr. Chairman, the word employe should be stricken out also, in the first line.

Mr. KERR. Mr. Chairman, it seems to me the word therein should not be stricken out.

Mr. BOWDLE. Could “therein” refer to any other word than State?

The CHAIRMAN. Gentlemen, the question is upon the amendment to the amendment offered by Mr. Van Horne, to strike out the words “or employment therein,” in line 6.

The amendment was agreed to.

Mr. VARIAN. Mr. Chairman, I move to insert after the word “office” the words, “in the municipality granting such charter or franchise.”

The amendment was agreed to.

Mr. RICHARDS. Mr. Chairman, I move to strike out the words, “employe, attorney, or agent,” in the first and second lines. I desire to say in support of this motion that while I think it very proper that an officer of a corporation should be prevented from being an officer of the municipality under such circumstances, it seems to me that to provide unconditionally in the Constitution that an employe, or an attorney, or agent of a corporation could not hold an office under the municipality would be a great hardship. I have in my mind as an example the case of a gentleman who holds an office now in this city. He is a member of the city council. He is attorney for a railroad company that has a franchise for a track that runs through some of the streets of this city. There is no reason in the world that I know of

why that man should be any more influenced or biased in his actions in regard to city matters than there is why I should be or any other man in this city—none whatever. He is an efficient member of the city council. This franchise was granted ten years ago or thereabouts. There are no relations between the railway company that he represents and the city that would tend to influence him in any way, shape, or manner. Now, why should he be excluded from holding an office under the city?

Mr. BUTTON. May I ask the gentleman a question? Will all the attorneys for all corporations be the same as this one you just spoke of?

Mr. RICHARDS. Well, I do not know. I am saying that the section as it now stands excludes that kind of a case; in other words, it would exclude that person from holding office.

Mr. BUTTON. If you let him in, wouldn't you have to let in all the rest?

Mr. RICHARDS. I do not know what you mean by all the rest.

Mr. BUTTON. Well, any one?

Mr. RICHARDS. Yes, if you say any one who represents a corporation under such circumstances as that ought to be in I say no; I say that a person ought not to be excluded under such circumstances, whether it is this man or any other man. Furthermore, I say that a man who works out here on a railroad, where the company has a franchise through the city, and because the man may be a section man—that may be his employment, working on the roadbed of that railroad, and I say that is no reason why he should be excluded. This section is just that broad, I say, that it excludes all that class of people. Now, I am willing that the section should be made strong enough to include officers of these corporations. I think that would be proper, but to make it include every man that works for the corporation, it seems to me that it is carrying it too far, and es-

pecially in a constitutional provision. If it was a statute, it would not be so bad.

Mr. KERR. What is the object of putting in "agent of the corporation?"

Mr. RICHARDS. Well, I am not so particular about the striking out of the word agent, although it occurred to me that might probably be stricken out, because men who come as agents are not necessarily influenced to that extent that they would be biased in those matters, but then I will limit, for the purpose of testing this question, my motion to striking out the words "employee, attorney."

Mr. BUTTON. Mr. Chairman, I amend by striking out the word "employee."

Mr. BOWDLE. Mr. Chairman, I have not very much objection to striking out the word employee. I don't know as I would stand on that, but I would object, if we have anything at all in this section, to striking out attorney. You might just as well put the president of the company himself in the city council as his attorney, and, in fact, I don't know but I would rather do it. I do not think that the case Mr. Richards cites is a case that ought to have very much bearing upon this question. He says here is a corporation that has a franchise through this city, and it would be unfair to exclude the attorney that represents that corporation. Why? If we are going to exclude him for this reason, that the corporation stands in just the same position that it might when a further extension of franchise, and the attorney would be standing there to represent that. I am opposed to the striking out of anything more than employee. I would favor the striking out of the word employee, and then that is a little broader than I like.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to these amendments, both of them. If this Convention wants to get my vote to strike that whole thing out, all they want to do is to carry this

amendment. Then I am ready to move to strike out the whole thing. If we are going to undertake to curtail what this is intended to do, let us do it clean cut, without any whipping around about it. I am in favor of retaining it just as it is, and I am opposed to all the amendments.

Mr. SQUIRES. Mr. Chairman, I would like to ask the chairman of this committee if, under the circumstances, he has any objection to having the word employe stricken out of that section?

Mr. JAMES. Why, Mr. Squires, no, I have not.

Mr. SQUIRES. Then, I will support that amendment.

Mr. MALONEY. Mr. Chairman, the object of striking out the word employe is to allow the men who work daily or by the month for the corporations, to be elected under the city charter. Now, if you strike out the word employe, then the gaff is down. These men are not regularly employed like attorneys, by the year. They can very easily quit the employment of the corporation. I am opposed to both amendments.

Mr. ROBERTS. Mr. Chairman, I am opposed to the amendment for the reason, as suggested by the gentleman who last spoke, that you make a breach in the wall of defense that we build around our corporations in this instance, and I must state that it would result in mischief. I believe the principle upon which this section is founded is a good one. I think it ought to be enforced all along the line as indicated in this section. Gentlemen, remember, in the article on legislative we were very careful to exclude from the Legislature men holding office in the State or county of a certain grade, and the principle of it was to free the Legislature from those men who might be influenced in their conduct as legislators in favor of the interest that they would represent in their official capacity. And now, sir, the purpose of this section, as I under-

stand it, is to exclude from the municipal council those who might work in the interests of these corporations. There is no danger much of the common employes, such as the section hands, to which reference has been made, of these corporations being elected to the city council, or to any other municipal office. But if they were elected, you could take it as a matter of course that they were going there as the creatures of the corporations in which they were employed, and there is no danger, however, unless it should be in the case that I have now cited—the corporation, having a man elected there that it would own body and soul, and who would be a mere creature of that corporation. Otherwise, there is no danger of men engaged in the ordinary pursuits of an employe in a corporation ever getting into the city council, and I shall vote for this section as it is, and preserve the municipalities from the danger that this section seems to provide against. It ought to be just as it is. The attorney ought to be excluded; the agent ought to be excluded; the officer of the corporation ought to be excluded, and so had the employe ought to be excluded, as the great probability is he would never get there unless he was sent there as the creature of a corporation, and would be just as dangerous as any of the other officers, because he would vote just as he was directed to vote, under the circumstances, by that corporation.

Mr. JAMES. Mr. Chairman, the principle of course will be conceded by this Convention as being correct, but I want to say to this Convention the one trouble that arises is to cover the whole field. If the committee on corporations had attempted to do it, of course it would have got into deep water again. It would have been legislation. I want to say to you, gentlemen of this committee, right here is where the root of the great evil in incorporations originates. I have served in some councils

myself, and I have some opinion of difficulties and troubles that we had to contend with. It goes further though, Mr. Chairman, than what this section provides for. This simply provides for municipalities, or is intended to. I think perhaps the wording of the section should have been with a little more care and then it would have been better understood, but it is pretty well amended now, so it will be understood. But, Mr. Chairman, the evil of to-day in corporations is that the managers of those corporations, running businesses within themselves, taking contracts, providing supplies, and so on, that they are making money out of it, and the stockholder is not. Now, there has been a good deal said on engrafting into this article legislative matter. Why, my friends, I do not know why you say so much about that. If you had kept track of the article that was introduced on the fourth day of the session of this Convention, to be inserted in the Constitution, you would have found an article, in place of thirty-eight sections, as in that, with about sixty-eight sections, and I say the article was complete. You find if you go to the constitution of Missouri, it did not only take care of the municipalities, but they said that no employe of any corporation should be engaged in any contract in supplying the corporation with any supplies or any other business, through which he should receive any emoluments, excepting such as was provided by the officers of that corporation. So far did they go in the constitution of Missouri, to protect the people against just such provisions as we are trying to protect them against in that little clause there.

Mr. MORITZ. I would like to ascertain what other state has a similar provision in its constitution.

Mr. JAMES. I do not know any.

Mr. ANDERSON. Mr. Chairman, I think that these words should be stricken out. I think the cure this sec-

tion intends to make is worse than the disease. This might exclude the very best men in the municipality, and in many cases would exclude the majority of the voters of the place, and I do not think that this should be placed in the Constitution. I think that the principle is vicious, that it restricts the rights of the citizen.

Mr. EVANS (Weber). Mr. Chairman and gentlemen, I just want to call attention directly to the purpose of this section. It simply is designed to prevent the election of any person to a municipal office who is an officer, employe, attorney, or agent of any corporation, that has received a franchise from the municipality. That is the real purpose of it, and the underlying principle in this section is undoubtedly a correct one. To strike out "employes, attorneys," would be as the chairman said this morning respecting another matter, taking the teeth out of the section. You know, gentlemen, that if you permit an attorney of one of these corporations owning a franchise, to be a member of the city council, he would be more dangerous than the president of the corporation himself, or any other officer in it. He would probably devise means by which benefits would be derived which other officers of the company could not. And in that, it would be doing violence to the section to eliminate the word attorneys, because, gentlemen, an attorney would act in the city council as an attorney of his corporation and as the officer of the city, in a dual capacity. I say that word ought not to be stricken out, neither should the word employe be stricken out, because it is just as dangerous to have an employe in the service of a corporation owning a franchise, sitting in the city council, as to have his principal; he will do his bidding anyway. He would be under the constant fear and dread of his employer and of being discharged from service, if he did not vote in the interest of his company

when he was casting his vote in the municipality. Gentlemen, these men who sit in city councils and take part in municipal governments ought to be there in the interests of the people and not in the interests of any particular corporation that has received its franchises from the city. The principle itself is right and the section ought to be retained.

Mr. ANDERSON. I would like to ask the gentleman a question, if a wealthy man doing the same kind of business as a corporation in the city—should his employes or attorneys be treated in the same manner?

Mr. EVANS (Weber). Could not the wealthy man have his agents in the city council, you mean?

Mr. ANDERSON. Could not not he, under this? A wealthy man could do business without incorporating, that would not affect his agents.

Mr. EVANS (Weber.) That is quite true; we are simply dealing with an evil which we know has existed, and we are trying to put a limitation upon that and prevent it. The other evil has not yet arisen.

Mr. SMITH. Mr. Chairman, I trust that this section will not pass in the form in which it is. I think that any person that is doing business in a corporation whether of a private character or what the conditions are, should not be proscribed from holding an office, and by this means so far as practicable, take every man of good common sense out of the reach and manipulation of city concerns; it strikes me this section is of that character and aims a blow at the best interests of the municipalities, and so far as I am concerned, I shall vote for the elimination of the whole business.

Mr. CREER. Mr. Chairman, I shall be obliged to vote against either of the amendments, and against the section the way it is constructed.

The CHAIRMAN. There is no motion

before the house to strike out the entire section.

Mr. ANDERSON. Mr. Chairman, I made the motion to strike out the entire section.

The amendment of Mr. Button was rejected.

The amendment of Mr. Richards was rejected.

The CHAIRMAN. The question now recurs upon the motion of Mr. Anderson, to strike out the entire section.

Mr. MORITZ. Mr. Chairman, I would like to say a word on the subject. If I understand this exactly right, it means to disfranchise a certain class of people in this Territory. Now, I am opposed to disfranchisement. I believe this Territory had enough of that. I believe that we can trust the people who they shall elect, and when they send a man of ability. If we cannot trust the people, why it is about time we quit politics, and therefore, I am opposed to the whole section, and I hope that the striking out of that section will prevail, and do not let us have any trouble in this country about disfranchisement. We have had enough of it.

The motion to strike out was rejected.

Mr. VAN HORNE. Mr. Chairman, I move to strike out the words, "in this State," in line 4. My idea is that we are only legislating for this State. We could not legislate for any other state.

Mr. VARIAN. I agree with the gentleman.

The amendment was agreed to.

Mr. FARR. Mr. Chairman, I have a section I would like to put in, or an amendment, and I really do not know whether to put it into this section or at the end of the article. I have looked this over pretty well. Most of the things in this article have been provided for in other articles that we have already passed through in this Convention. And I would like to put an amendment; as I said, I do not

know but I had better put it in at the close of this, but I feel that most of the provisions in this article have already been provided for in other places, but I would like to see this article gone through with and made plain, and every point brought up in it that is necessary to make it complete, although I am satisfied that the Legislature has a perfect right to demand all this business and will do it, but I think it is a very important amendment, to put in here, which I hope will prevail, although I do not know that it is necessary to put it in here now, but the amendment I wish to put in is to strike out the enacting clause. [Laughter.]

Section 22 was read.

Mr. JAMES. Mr. Chairman, I move to strike out, after the word "control," in line 9, down to and including the word "companies," in line 14.

Mr. EVANS (Utah). Mr. Chairman, I move to strike it all out.

Mr. JAMES. Mr. Chairman, the reason I ask to strike that out is, that I ascertained since I put that in that it would be impossible for the stations along the railroad in the country to furnish the same facilities to more than one company; that the telegraph operator, and the agent, and a whole lot of other matters are combined in one individual, and they would be unable to accommodate them with these facilities, and consequently it might work some hardship, and, therefore, I would ask to strike it out.

The amendment of Mr. James was agreed to.

Mr. VARIAN. Mr. Chairman, the motion to strike out should not prevail. I desire to offer an amendment after the word companies, in line 16, to insert "under such regulations as may be prescribed by general law."

Mr. VAN HORNE. Line 3 provides for an individual, and an individual is expected from the requirement that he shall transmit those messages.

Mr. VARIAN. I am not dealing with

that question now. I am dealing with the provision in regard to eminent domain. As it stands, here is a constitutional declaration, without any limitation whatever, extending it to all telegraph or telephone companies. That might make it extremely inconvenient. My idea is that the Legislature ought to prescribe general regulations by general law, by which all telephone companies and telegraph companies could operate. If you leave it just as it is, here is a constitutional mandate which is broadly extended to all companies. Now, that ought to be circumscribed, it seems to me, so that the general law would make a general rule for all these companies, in like conditions, and under similar circumstances.

The amendment of Mr. Varian was agreed to.

Mr. SQUIRES. Mr. Chairman, I move to insert after the word companies, in the fifth line, the words "or individuals."

The amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, one reason that I am in favor of striking this section out is that we are getting a very cumbersome Constitution. It is going to be very expensive to get it printed, and I cannot see that it is going to be of any particular use. It is purely legislative from beginning to end, and I think it is of that class of legislation that ought to be left to the Legislature. It is true there are a great many other things in this Constitution that are legislative also, but I think this ought to be stricken out and leave it to the Legislature to make those regulations. There is no question but what they will do it.

Mr. CORAY. Mr. Chairman, I move to strike out all after the word companies, in line 16, not including the amendment proposed by Mr. Varian.

The motion of Mr. Evans, of Utah, was rejected.

Mr. VAN HORNE. Mr. Chairman, I move to strike out, beginning after the

word "discrimination," in line 7, the words, "and all such companies are hereby declared to be subject to legislative control." That is fully covered in section 1.

The amendment of Mr. Van Horne was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I want to propose an amendment to line 7, after the word "without," by inserting the word "unnecessary," so as to make it correspond with the section amended formerly.

Mr. CANNON. Mr. Chairman, I move to make the transposition made in the other section, "no discrimination or unnecessary delay."

Mr. EVANS (Weber). I accept that.

The amendment was agreed to.

Section 23 was read.

Mr. EICHNOR. Mr. Chairman, I move to strike out section 23.

Mr. RYAN. Mr. Chairman, I desire to offer an amendment to that section, if it is in order, and I will explain it as well as I can. I would strike out all after "generally," in the fourth line, and I would add at the commencement of the section, "except to its own servants employed in well established lines of work, no railroad or other transportation company shall grant free passes or sell tickets or passes at a discount or extend free transportation to the person or property of any person." I would not limit the railroad company to granting free passes to public servants, but I would entirely do away with that abuse. That is what I am after, and I would make the railroad companies serve everybody exactly alike.

Mr. CANNON. Mr. Chairman, I am in favor of striking out. I trust the motion will prevail.

Mr. FARR. Mr. Chairman, and gentlemen, I think we can cure the whole section by killing the motion to strike out.

Mr. EICHNOR. Mr. Chairman, I desire to say a few words with respect to

my motion. In the first place, I am not a pass fiend. I have only traveled between two points free in my life, and that is between Salt Lake City and Logan City.

Mr. EVANS (Weber). Do you ever expect to in the future?

Mr. EICHNOR. I don't know, and if I hold any office in the future, I shall not deem it a bribe if I have a pass from the railroad company.

Mr. ROBERTS. You had better serve that notice on the railroad.

Mr. EICHNOR. I am opposed to this section. In the first place, it is legislation of the purest kind. The first idea of this was sprung in South Dakota and in the state of Washington. The New York constitution of 1894 followed suit; Kentucky, in 1891, too, did likewise; Mississippi has a similar provision. Now, at present, what is the effect of the constitutional provision in the state of New York? Why, the railroad companies are defeating the provisions of the constitutional enactment. It is simply ineffectual. Gentlemen who argued on this floor the other day that prohibition could not be enforced—I tell you, gentlemen, that this cannot be enforced any more than prohibition. If prohibition cannot be enforced with all the officers watching, how can you enforce this? I am not a railroad employe; I am not an attorney for a railroad; I am not connected with the railroad in any way, shape, or form. Now, I do not deem that the strongest ground is because it is legislation, or because it is ineffectual, that it should be stricken out, but there is a higher principle involved in this. Are we to treat every officer as willing to receive a bribe from a transportation company? Suppose a gentleman from the outside—I see my friend, Mr. Chidester, over there, and Mr. Allen, of Piute; suppose they would be here on passes; why it would be impeaching their honesty to say that they would legislate or make constitutional enact-

ments in favor of the railroad companies.

Mr. CHIDESTER. I would like to ask the gentleman a question. Did I understand you to say we had passes?

Mr. EICHNOR. No, sir; I simply said if you had.

Mr. VARIAN. May I ask the gentleman a question? What is the purpose of railroad and other companies' receivers giving passes to members of the Legislature and public officers?

Mr. EICHNOR. Not any more than if I had a carriage, and I asked Mr. Varian to take a drive with me to Saltair Beach; that is the secret of it.

Mr. SQUIRES. Do the people regard it in that way.

Mr. EICHNOR. I do not care how the people regard it. That is the way I regard it. I have held public office, and I have never had a pass, never asked for one, and if I had a pass I would have acted the same towards the people as I did. This thing of trying to make people honest by legislation is simply nonsense.

Mr. VARIAN. Mr. Chairman, I will agree with the gentleman; you cannot make some people honest by legislation.

Mr. EICHNOR. That may be correct as far as the gentleman is concerned that made the remark. He has held office. Now, to be serious in this matter, gentlemen, what will it show the future generation? It will simply show that we have no confidence in our legislators, and in our public officials. The practical question comes, has this matter been abused in this Territory? I never heard that it has. I do not think any one else has. If it becomes abused, the Legislature can step in and make the provision. If it has been abused in some other state why the Legislature can deal with it. I have been in another state where they have had large railway companies, and we had no legislation on it.

Mr. SQUIRES. Would the gentleman like to have the next Legislature come here to Salt Lake and hold its session

on railroad passes, and then charge up mileage against the Territory?

Mr. EICHNOR. Yes, I do not care. If they can get a pass and take the mileage, I say go it.

Mr. EVANS (Weber). Mr. Chairman, that is a matter that I introduced something to be inserted in the Constitution, among the first days of the session, on, and I am somewhat particular about it. I am not going to talk more than a moment or two, but I am going to ask one or two questions. Gentlemen who are going to vote upon the floor of this committee, just answer these questions: Why is it that railroad companies always give passes to the members of the Legislature? Why is it that they always give passes to the board of equalization? Why is it that they always give passes to the judges, and why do they give passes to the governor, and these other officials? Why do they confine themselves to these particular classes of public officers? Do you not think there is method in the extension of this courtesy on the part of these companies?

Mr. HILL. May I ask the gentleman a question? Is it a fact that passes are only granted to those officials—legislators, governors, and officers of that kind, and them only?

Mr. EVANS (Weber). No, sir; it is not. I am calling attention to this particular class of officers who have it in their power to benefit railroad companies by their actions. The governor can veto measures which are against the interests of corporate power. The board of equalization can assess at a lower rate the property of corporations. Legislators make the laws which affect corporations. Assessors assess the value of the property of corporations, and I call attention to this class of people, for the purpose of showing you that in every instance that class of people receive this courtesy from these corporations. Now, why is it? And another thing, gentlemen of the com-

mittee, this class of people are usually the best able to pay transportation. The questions answer themselves, that they extend these courtesies for the purpose of influencing these particular officers in the interests of railroad corporations. Why is it that the recent trend of legislation is against the right of corporations to grant passes to public officers? Why is it that New York has recently, in its constitutional convention, made the most stringent provisions against it? Why have Kentucky and many of the other states done so? Not the least, gentlemen, in importance of those I have called your attention to, is the case of judges who sit upon the bench. What particular motive has a railroad corporation to extend the courtesy to that class of officers? Why, gentlemen, they sit daily upon the property interests of corporations. They have the right to reduce judgments when they are rendered. They have the right to grant new trials. They have the interests of corporations in their hands, and such officers also receive these courtesies; it is an incidental bribe; it is intended as such, and it is not impeaching the integrity of any man, either, to say so. I believe that officers believe themselves honest. I believe that they honestly believe they are not influenced by the extension of these courtesies, but they are influenced unconsciously in many cases. I believe that legislators are unconsciously influenced in the same way, assessors are influenced likewise, and so are other officers. Now, gentlemen, I believe this provision to be in the interests of the public, in the interests of the people, and I do trust that this committee will not strike out this section.

Mr. LUND. I want to ask the gentleman why he left out sheriffs and ministers? What good could the ministers and sheriffs do corporations?

Mr. EVANS (Weber). They want the sheriffs of course to protect their property and bring people to justice who

have interfered with it. I do not know that they could benefit the corporation in any other way. So far as ministers are concerned, I do not know as a general rule that they could get passes; some of them do; they get rates, however.

Mr. RICKS. I want to ask the gentleman if he thinks for a minute that railroad companies will be guilty of trying to bribe Heaven by passing ministers?

Mr. EVANS (Weber). I suppose the gentleman has asked that in a joke. I believe if these corporations could secure a pecuniary benefit they would even bribe the angels.

Mr. EICHNOR. Mr. Chairman, assuming that my friend, Mr. Morris, of Salt Lake City, would have an annual pass from the railroad company, and he should happen to be elected to a State office, could he use that pass, as a private citizen, or would he be barred altogether by this?

Mr. EVANS (Weber). I do not say it is a direct bribe. I say incidentally it is.

Mr. EICHNOR. Would not he be barred from riding on that pass?

Mr. EVANS (Weber). Certainly he would and ought to.

Mr. EICHNOR. Would not the effect of this be to put more money into the pockets of the railroad than they paid out?

Mr. EVANS (Weber). Probably, in one way, the railroad company would receive more money. In another way it would receive a good deal less, and that is very apparent, without going into detail.

Mr. ANDERSON. Mr. Chairman, I think this section should be stricken out. It is legislation pure and simple. I am surprised at some members on the floor who seem to me so tenacious of the rights of individuals in some instances, while in other cases they will go so far as to disfranchise them to a

certain extent, and tax them without representation.

Mr. RALEIGH. I wish to ask the gentleman from Weber a question. Mr. Evans, provided this section should pass as reported from the committee, and the Legislature should enact a law providing for the carrying out of this proposition in this section, do you suppose it would be enforced any more against a railroad company or transportation company than it could be enforced against you or me or anybody else in making a donation to that effect—that is, to the effect of a pass?

Mr. EVANS (Weber). I do not know whether I exactly understand your question.

Mr. RALEIGH. I will state it differently. Do you suppose that you could prohibit by law the giving away of anything by a corporation any more than you can an individual?

Mr. EVANS (Weber). I think it will have a restraint upon them. I do not know that we can prohibit them, because, as it has been stated, we cannot prohibit crime; still we can make laws against it.

Mr. RALEIGH. Can it be enforced?

Mr. EVANS (Weber). They are enforcing it in New York, I believe, and in Kentucky. Of course, I do not say that they enforce it completely, but it is a restraint upon them, just as far as any other law.

Mr. BOWDLE. Mr. Chairman, there is just one reason why I am in favor of striking this section out, and that is the intent of it cannot be enforced, and it would debar persons from enjoying the same privilege, occupying the same position. Suppose you pass this law. Now, a conscientious legislator under this would not accept a pass. If he were to accept a pass, if this were not here, that kind of man would not be affected at all one way or the other. You cannot buy that kind of man with a little pass from here to Washington County or anywhere else, but the kind

of men that the corporation could use would get the pass if you put this in here. They would get around it. Therefore, I say that the very men that you are seeking to enforce this against you cannot do it. It would not be a written pass, probably; it would be a whispered privilege, to the conductor, "you let this fellow go up there; he is all right," and pass them all. Now, that kind of a fellow would get through and you could not say that that was a pass, and that is the very kind of an element that would be bought by the railroad corporations, and the man that accepts the pass—an honest legislator would not take it, if this stood there, because he would be disobeying the law, and therefore would not accept it, and there is the reason why I am opposing it, and in favor of striking it out.

Mr. FARR. Mr. Chairman, I hope this section may be allowed to remain. It is well known that I am a friend of building railroads in this country, and have done more probably financially than any other man in this Territory. Hence, I am a friend to railroad companies for this reason; I would like to have this section remain, because if this section would remain, it would save thousands and perhaps hundreds of thousands for the Utah Company, as well as the S. P. Company, because when men come to them for a pass by scores and perhaps hundreds, they say, we cannot, because we are prohibited by law. I hope that section will remain and give the companies a chance to get this money.

Mr. L. LARSEN. Mr. Chairman, I am afraid there are too many of the gentlemen right here that would accept a free pass. For the same reason, I am afraid to leave it to the Legislature for fear they would do the same thing. Up to date, they have passed no law against it. I say it is a discrimination; it is wrong in principle, and we should not sustain it. That is my idea about

it. I have always thought so for many years. Talk about that men won't accept it. I know of a great many all over this Territory—lawyers, etc. The people are tired of it. I think we ought to sustain this section. It suits me all right even with the amendment to it.

Mr. SQUIRES. Mr. Chairman, I am in favor of this section as it stands. I believe it should be adopted. During a little experience last fall in going around this Territory during the campaign, I noticed that on every railroad train where I had to pay my fare there were certain territorial officials, who were upon the same business that I was, that were riding free, and that was a discrimination that did not suit me at all at that time, and I believe it is a discrimination which should not be made. I am in favor of this section just as it stands.

Mr. EVANS (Utah). Mr. Chairman, I hope this motion will not prevail to strike this section out. These corporations have gone into business for the purpose of making money out of it, and every pass they give, they are going to keep up the rates on people who pay. They make about a certain per cent. out of their traffic, and every time there is a pass given out, and when there are numerous passes given out, they are required, in order to get the same per cent. out of the money invested in that business, to make men who pay for it pay a greater rate, and I am opposed to it. Now, it has been said by gentlemen upon the other side that they don't think it makes any difference. I submit to you, gentlemen of this committee, that if you want to gain influence of a man, you simply want to be good to him, and be kind to him. There is no one of you here but knows that that is your own experience, and if persons are kind to you by doing favors towards you, why it is in the human heart to be drawn out and have a tender feeling towards that class of men

and that class of people, and this is its effect, just to that extent.

Mr. ROBINSON (Kane). I would like to know what the gentleman thinks about the kind of feeling that has been shown by this article to railroad companies, when half of us are here on passes?

Mr. EVANS (Utah). I propose to stop it in the future, and when we come up here again, let us pay our way, so that some poor fellow won't have to pay it for us. There is another thing that I want to submit to this committee. Sometime ago there was a law passed whereby the power of equalizing the taxes of the railroad companies was taken out of the hands of the county courts in this Territory, and after that was done, I submit to you, sir, that the passes ceased to come to the county courts. Now, you can make of that just what you are a mind to, but that is the fact. As soon as the power was within those county courts to pass upon the equalization and the raising or lowering of those values, by the county courts, those passes came, and I was the recipient of them for two or three years. I accepted of it, that is true, but as soon as that came into operation they ceased and stopped.

Mr. THURMAN. And now you are opposed to them?

Mr. EVANS (Utah). And now I am opposed to them. I submit to you, gentlemen, this is the fact and you can draw your own conclusions. I submit to you that the power was placed in the hands of an equalization board, composed of officers of the Territory, but that their passes kept coming. They continued to come. Now, you can make out of this what you want to; and another reason why I am in favor of this section particularly above all sections we placed in this Constitution—my friend, Mr. Eichnor, says it is pure legislation. Mr. Anderson says it is pure legislation, and I would like to

have a section in there which is pure legislation, and I believe that is.

Mr. MORRIS. Mr. Chairman, I am in favor of striking out this section, because I believe it to be a dead letter. If the railroads want to bribe they can find other ways to bribe than to give free tickets or free passes. There are many men who are doing very extensive business for the railroads—mining men, and they have passes; that is true. Such men may be called to the Legislature, and they would have to refuse to accept of that favor, and I believe it would be better to strike this section out entirely. I do not believe it would be any good.

Mr. CORAY. Mr. Chairman, I have a substitute for section 23 I would like to offer.

The CHAIRMAN. Mr. Coray, that substitute would not be in order just at this time.

Mr. RYAN. Mr. Chairman, I have enjoyed the efforts that have been made—what I could hear. I have not been able to hear all of them, but now I wish to say a word in my own way in support of the amendment that I offer. I think it is conceded, and it is conceded by this Convention, at least in former sections of this article, that the Legislature has full control—in other words the people have full control of corporations of all kinds. Corporations are all around creation; they occupy our public lands, our public roads, and our streets under certain conditions. They occupy the property of the whole people, not of one class of people, and as a people we are interested in their economical management, and their just and equal treatment of all people. Every citizen should stand alike, and I think it is the duty of the State to make all corporations of that nature, especially public carriers—to treat all its citizens exactly alike. There is no reason why we within this bar should be granted passes and those outside made to pay their fare, because every citizen

or every person that the railroad company carries free, you or I, who pay our fare, must pay that much in addition. Hence, I say it is the duty of the State, as I look at it, from my standpoint, that every citizen should be treated alike, and it is the duty of the State to compel all public carriers to treat its citizens alike. Then we stand on the same footing. Because the railroad companies, in the first place, never grant special privileges, except they expect something in return, and they never grant special privileges only to those who are in authority, or who are rich or powerful. You exclude the common people from the benefits that you otherwise have, if everybody was treated alike and everybody paid alike, for all services rendered by any public corporation. Now, it was with that idea in view that I offered my amendment, and I don't think possibly the members fully understood the amendment as I intended to offer it, and I will write it out in full soon.

Mr. THOMPSON. Mr. Chairman, from what I hear, I should judge that the members of this Convention consider the railroad corporations very hard cases. They all seem to intimate that everything that the corporations do they have an idea to effect something, or bring to them something in an unlawful way. Now, I do not view the matter in this light. I think the corporations that are formed and carrying on business in this country as a rule—I think their object is to do business in an honorable way, and to say that they will not grant a favor to any officer of the country, it seems to me is going a little too far. I think they should have the same privilege that any individual has to grant favors whenever they choose, and if it is discovered that they have been using means to bribe any public officer, then it is time to condemn them, and I am in favor of striking out the section. They are a public benefit to the country, and, as a rule, I

do not hold that they take advantage. I do not think that they charge more to people because they give some half rates. I think they have uniform prices, whether they give many free or half passes or not. I do not think it makes any difference, but they want to confer a favor on public officers, as we all, as a rule, feel to honor officers that the whole people have chosen, and I do not think that we should consider that any man that is holding an office that accepts a favor of this kind, would any way be thought that he would favor them and change his opinion in regard to what is right, in regard to that corporation. I think that the officers that the people of this Territory will choose to fill their offices, will be men of honor, and they will receive it as a favor because of the office they hold, and not view it that the corporations are doing it that they may favor them. Now, I do not feel to condemn them in that way—that are organized in companies.

Mr. LUND. Mr. Chairman, I do not believe that we can enforce this section at all, not even if we should add to it the language of section 17, which says that "and shall enforce such laws by adequate penalties." I do not believe that even that at the end of this section would make it hold in all cases. For instances, you take an excursion, and every person there is guaranteed a special rate, because it is of special advantage to the railroad company to have its cars filled. Now, from Sanpete County to Saltair last year, I believe they traveled for \$2.25 for the round trip, and those who got on the train to go to Salt Lake had to pay \$8.50 with no privilege to return. Now, if our sense of justice and equity is very keen, that would be a very great discrimination; but how could we get at that discrimination? What is a special advantage to the railway companies will be that to which they will cater, and we cannot help it, I do not think,

by this section, and I for one, would like to see it stricken out.

Mr. HART. Mr. Chairman, I am in favor of the motion to strike this section out. The section as it stands was no doubt intended as being against the interests of the railroad companies, and yet I doubt not any railroad company in this Territory would feel bad for a moment, or any of their officers, if this section were to remain. What member of this Convention felt that a bribe was being offered him when half fare rates were offered? What member of this Convention did not deem that a courtesy, and did not feel that the company might just as well have gone further and given full transportation? Is there any member of this Convention who has been influenced in any way in this matter by accepting the courtesy of a half rate from the railroad company? With the State officers made members of so many boards, necessitating traveling all over the State, if they should be denied the privilege of free transportation, the result would be that it would take a large part of the two thousand dollars that we allow our governor for traveling over the Territory connected with the various duties of his office. I do not think for a moment that it would influence him.

Mr. EVANS (Weber). Do not these officers get their mileage out of the treasury of the State anyway?

Mr. HART. I may be wrong about that.

Mr. EICHNOR. It says the Legislature may provide.

Mr. HART. If there is to be any legislation on this subject, however, I think it would be well to leave it to the Legislature and not put it in the organic law. To my mind, it is a provision clearly in the interests of the railroad, and they will appreciate this favor, I am inclined to think, if you will relieve them from the constant annoyance it has given to have various people, officers, etc., soliciting transportation.

Mr. EVANS (Weber). I would like to ask you why it is that railroad companies issue passes to judges and the board of territorial equalization in this Territory?

Mr. HART. Well, the situation seems to me about this: Officials expect favors of this kind and they are not influenced by it in favor of them, but if you would withhold from them something which they thought the railroad company should give them, they might go further and be inclined to do an actual injustice, and the railroad companies, for not extending a privilege which they have come to look upon as a matter of course and as a matter of right, will suffer.

Mr. EVANS (Weber). Then, your idea is that the railroad companies extend these passes, so that the judges will not do them an injustice, is it?

Mr. HART. No, I do not say that. But that perhaps would be so with officers in general, if a railroad company, having the privilege to extend a courtesy that they regard as being a matter of course, should deny it to them.

Mr. MALONEY. Do you suppose for one moment that the Legislature, coming here, every one of them, with tickets in their pockets, would ever pass anything restrictive on railroad companies?

Mr. HART. Yes, sir; do you think for a moment that any member of this Convention has been influenced by the half fare rate that he was given? Do you think any member of this house would be influenced if full transportation had been given? I would not like to think for a moment that any member upon this floor would accept a bribe in that way, and would be influenced, and if the railroad corporations engage in this general bribing business I ask you why they did not, when the organic law of this State was about to be framed, when matters either favoring or discriminating against them were to go into this instrument, why did

they not commence the bribery business in this Constitutional Convention? Have you seen anything of the kind here—any attempt on their part to influence your action?

Mr. MALONEY. The question that the delegate put answers itself. The railroad company, when the passes issue, expect value received. Now, as to the delegates of this Convention, I can answer the gentleman's question. I want to say to you that for ten years, being a resident of this Territory, I have tried every Legislature to get something passed in the interest of the farmers along the railroad track. I was met in every instance by legislators and attorneys of railroad corporations in the Legislature, all of them with free passes, and not a single bill could I ever get passed in the interests of the farmer against railroad companies. I am opposed to this pass business from beginning to end. Whenever the railroad company can place passes in the hands of the judges, the governor, and the State officials, it expects value received, and it generally gets it.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I understand the situation. Our votes indicate that we are willing to accept any passes. I want to say that we will do no harm in taking everything we can get from the railroads. I will say that every member that may be assisted by a pass will benefit the people, because there will be that much more of the circulating medium amongst us, while if the railroads got it, it may go out of the country. And as for the transportation, there is a schedule—there is a tariff on their mileage for passengers, which would not make any difference if they passed every official in this Territory or country over. It would make no difference to the general public. Now, as to the amendment of the gentleman on my left, I want to say that the business men of this Territory do thousands and tens of thousands of business over

those railroads annually, send men out from one end of the country to the other, drum up business for them, making transportation for them, that they ought to be willing to give those men passes, but they don't get any consideration at the present time, except to buy mileage. Now, I don't think that there is any honorable man in this Territory that we may elect to the Legislature or to other positions, that is likely to receive these considerations as bribes. I think, if there is any prohibition to be placed on this proposition, that you can place it upon the man who receives the bribe. I look upon it the same as I do the liquor traffic. Let us go to work and train the people morally that they will not accept of this bribe, rather than that we should prohibit them giving bribes.

MR. RYAN. Mr. Chairman, I did not mean to offer any objections to men receiving passes. That is all right if men receive passes. I object to the system, simply. I do not think that we, as a people, should extend that privilege to railroad companies, of giving passes. Now, I don't think it will make any difference with the members of this Convention and their action at all, whether they rode here on passes or not. But speaking about business men riding over the Territory, that is all right. I am a business man. I have spent possibly in the last five years, twenty thousand dollars in prospecting in this Territory—or more. I have always paid my fare. Yet I go into Tintic and two-thirds of the people that ride in with me have passes. Well, now, supposing they all paid, what would be the difference? Why, I would be riding cheaper. You would be riding cheaper. I say that every pass extended to any person makes you and me pay that much more. I say it is wrong in principle. The principle of prohibiting railroad companies from the right of issuing passes is growing. Twenty years ago, we did not think anything of it, to our state

and county officers, it was all right, if any one could get a pass. They were smart. Now, states are legislating against it. Some states have gone as far—Pennsylvania has prohibited passes altogether in her constitution. Now, all states and all people are thinking of this question. We will soon be there, if we are not ready in this Convention. We will soon be ready to prohibit all passes and all that system. It is to the interests of the whole people that it should be done, not to one class. If we go on as we are, we simply recognize the right of corporations treating a class of citizens different from another. It is wrong in principle.

The amendment of Mr. Ryan was rejected.

The motion to strike out section 23 was agreed to.

Mr. Coray offered the following to take the place of section 23:

No person, holding office under the State of Utah, shall ever be permitted to accept of a pass or discount on the regular fare charged by the various transportation companies within the State. Any violation of this provision shall be deemed a felony.

MR. CORAY. Mr. Chairman, I believe it is a fixed rule in the United States that the officers of the United States are prohibited receiving any present from any foreign country whatsoever, and I think that is the line we should work on. We have been discussing the question from the wrong side entirely, and if we prohibit the members of the Legislature from accepting passes on railroads, the railroads certainly will not grant them.

The substitute was rejected.

Section 24 was read.

MR. JAMES. Mr. Chairman, I move to strike out section 24.

The motion was agreed to.

Section 25 was read.

MR. JAMES. Mr. Chairman, I move to strike out section 25. My object in moving to strike this section out is this:

There is only one local insurance company in this city. They are required to be responsible under this provision for their losses. I do not know how many other insurance companies do business in this city, whose stockholders are in foreign places. We cannot enact any law which will hold those stockholders responsible. Consequently we enact a law that discriminates against home industry and in the interest of foreign stockholders. That is my object in striking this section out, and as we proceed in this article under insurance, the amendments that I shall offer will even support my position further than what I have stated.

Mr. EVANS (Weber). Mr. Chairman, I fear that we are going too far in this matter, and I do not see how it is that the chairman of this committee has been converted so readily upon this section which he himself has reported here for favorable consideration. It is a very usual provision in many of the states, in fact in all well regulated states, and it is designed for the protection of those people who take out insurance. It makes the stockholders liable for the insurance when the loss shall have occurred. We simply want to have a Constitution here, it seems to me, according to the spirit, which does not protect the poor man at all. Everything is in the interests of organized combination, of the moneyed power, and we certainly ought not to pass over things in this way. I protest against the striking of it out.

Mr. MALONEY. Mr. Chairman, I am at a loss to know why, on a meeting of the full committee, this section 25 was deliberately agreed upon by every member of the committee, the reasons therefor were given, and without consultation with any member of the committee, as I understand it, the chairman of the committee moves to strike it out. Now, there are no safeguards at all if these stockholders have money in there and the corporation becomes in-

involved, and the policy holders ought to be protected in some manner. This is a usual provision in a great many of the constitutions, and I insist that it remain in.

Mr. CANNON. I would ask Mr. Maloney if he states that these sections on insurance were agreed to by the whole committee without any protest?

Mr. MALONEY. I so understand it. At the last meeting I never understood that there was a single protest from any member of this committee.

Mr. CANNON. I wish to explain that at the last meeting I stated there were several sections I did not agree to, because I did not think they were proper, but I thought they could be amended in committee of the whole as well as there.

Mr. SQUIRES. Mr. Chairman, I want to call attention to the provisions of section 26, and have those provisions considered in connection with section 25. Under section 26 every corporation is required to make a deposit with the state treasurer. Now, why should we make a distinction, and in addition to that make our own local company, the only company we have in Utah, responsible through its stockholders? I believe that is an unfair discrimination against our home company, and I agree with the chairman of the committee that that section should go out.

Mr. JAMES. Mr. Chairman, I wish to make an explanation, as chairman of the committee. The chairman has moved to strike out, after a few consultations with some members that he could reach, but not with a full understanding of the committee, and Mr. Maloney is right as far as I understand it, that we did agree; but I do not think Mr. Maloney would wish to hold me or any other man, after we have investigated and found out we have made a mistake. I say, as Mr. Squires has said, that it discriminates against one company and all the great insurance business that is done here it gives no protection whatever to, it is my inten-

tion to support the striking out of section 26, because we have also discovered that a uniform requirement of all insurance companies in this Territory of a hundred thousand dollars at least would be an injustice, and I do not want to perpetrate any injustice in this Convention on any corporation.

Mr. SQUIRES. Strike out that amount and substitute some other.

Mr. JAMES. I have a substitute here, which, just as soon as we can reach the question, will be considered.

Mr. THATCHER. I desire to ask Mr. Squires whether, if this section is stricken out, the same action would be then had in reference to section 32, which requires banks to be responsible, not only for the amount fully paid up, but a like amount in addition? That is for the safety of depositors, and this is for the safety of those who insure.

Mr. SQUIRES. I submit that banking is a different business from insurance, and we can meet that when we reach it, but I see here an unfair discrimination with section 26 as it stands, against a local company, and I am opposed to that discrimination.

Mr. THATCHER. Mr. Chairman, we are on section 25, and I would like to say a few words on that question. Insurance companies insure business property and residences, not only to the limit of their capital stock, but far above that. Supposing now, there should be a fire that would sweep out a number of insured buildings and wipe out the entire capital stock of the Home company, to which reference has been made. Then ought not the stockholders to be doubly liable, in order that those who paid their money may be protected, just the same in insurance companies as banks? If you do not preserve this section and the Legislature would fail to enact one similar, you will have a good many home insurance companies and a good many bankrupt ones, too, in my opinion.

Mr. KIMBALL (Salt Lake). Mr.

Chairman, I believe there is no discrimination against the Home company, but it is going to give them prestige over the foreign companies. If an agent from the home company should come to me and show me this law, whereby we would be protected, or I would be protected, and that each individual shareholder in that institution was liable, by all means I would accept of the home company in preference to the foreign company, and we are going to give them prestige in this respect; consequently, the way I look at it, I am prepared to sustain this section.

Mr. THATCHER. So am I.

Mr. SQUIRES. Mr. Chairman, my own impression is that if this section should be adopted, or should remain there, and this discrimination should remain against the Home company, instead of benefitting it in the way the gentleman suggests, I believe it would succeed in winding up the affairs of the company; that none but foreign companies doing business in this State would have any business.

Mr. BARNES. Mr. Chairman, I agree with Mr. Squires exactly. I think if this discrimination is allowed to be adopted that it will undoubtedly have the effect of winding up the affairs of the Home company. Now, I submit, gentlemen, that for years there has been no law that I am aware of upon our statute books requiring anything of this kind, and there has only been the one home fire insurance company organized. Some gentleman, I believe, made the assertion that there will be a great number of home fire insurance companies organized unless some provision of this kind is made. Gentlemen, there is not sufficient money made in insurance in this Territory to warrant the formation of another company. Already, I can tell you, that the Home Fire Insurance Company has considered the propriety of winding up their affairs by way of insurance, and if you go to work and cripple them, what Mr. Squires has said,

will most assuredly be brought about. I submit, gentlemen, that the Home Fire Insurance Company has dealt honestly and fairly with every one that has insured with it; not one, I believe, who has fairly dealt with the company has been cheated or despoiled. When they have incurred losses, or when they have met with an accident by way of fire, that company has been honorable and expects to be honorable, and will treat the public honorably. Then, why should we cripple them, why should we ask of them that that we cannot ask of these great companies that come from abroad? Why, gentlemen, are you so afraid of corporations? I have sat here and listened to-day and I have come to the conclusion that you all believe the adage, that corporations have no souls. I submit, what is a corporation, if it is not an assemblage or aggregation of individuals? If the individual is honest, if the individuals composing the corporation are honest, then the corporation will be honest, and why should we have such doubts and endeavor to legislate so against corporations, I cannot understand. I take the position, gentlemen, that this is entirely unfair with regard to the Home Fire Insurance Company, and hope that the suggestion of the chairman of the committee, that it be stricken out, will prevail.

Mr. RYAN. Mr. Chairman, it appears to me that that is an improper way to commence that matter on insurance. It does not strike me as being proper at all, and that probably one general section might cover that and banking, directing the Legislature to do certain things. If the section on banking would be amended to embrace insurance companies, and leave the whole matter to the Legislature as a matter of detail, the balance of the matter might go out.

Mr. JAMES. May I inquire of Captain Ryan what he is speaking about? I want to ask him if he is desirous of placing the matter in the hands of the

Legislature and letting them deal with it?

Mr. RYAN. Exactly. I was just giving my views on the section covering insurance and banking, that it seems to me wholly unnecessary, and that it did not start in right in one way.

Mr. JAMES. The proposition is this: The Legislature shall enact laws, compelling each company, corporation, association, or individuals, doing an insurance business in the State of Utah, to deposit with the state treasurer of Utah, in money or its equivalent, such sum as they may deem sufficient to protect policy holders, or in lieu thereof, require such companies, corporations, associations, or individuals, to hold unincumbered an equal amount in value of real estate. The secretary of the State has a guaranty fund for the security of policy holders. It turns it over to the Legislature and leaves it absolutely in their power, compelling them to do something to protect the public.

Mr. THURMAN. Mr. Chairman, I am opposed to striking out section 25. A great deal has been said here about the Home company and how this action would affect the Home company. My view of the law is that the Home company would not be affected at all, or any other company organized before the Constitution goes into effect, because we cannot, by a legislative enactment, or by a constitutional provision, increase the liability of a stockholder over and above what he contracted for at the time he entered into the contract of incorporation. That cannot be done. It would be impairing the obligation of a contract, and it is not one of those things that the Legislature has the power to regulate and control after the contract has been made; but it will operate in the future, as to future organizations, and for the good and wholesome reason suggested by the gentleman from Cache County, I do not see

why we should not have that liability attached to the stockholders. It is certainly a peculiar business. It is one in which, by virtue of the exigencies that may exist or occur, the capital stock subscribed will not be sufficient to pay the obligations of the company. It is not like another business in which a company can foresee what its liabilities are going to be, and can gauge its liabilities according to its capital stock. It may be thousands; it may be millions; they cannot tell, according to the value of the property it has insured, and it is a proper case for the law to require of the stockholders of the company something more than the ordinary guaranty to satisfy liabilities. And I trust, gentlemen, that we will retain this section if the chairman does strike out the next one.

Mr. WELLS. How do you construe section 2, in connection with your statement that it does not affect the companies now in existence?

Mr. THURMAN. Well, I do not know what section 2 is, but I will say without seeing it, that no matter what it is this Convention cannot say that the liabilities of stockholders in existing corporations shall be doubled, because that is a matter of contract.

Mr. WELLS. I merely wished to ask if in your opinion that would affect the stockholders in the present company?

Mr. THURMAN. It would affect them, as suggested by Mr. Evans, simply as to future legislation. That is what it merely relates to.

Mr. KERR. I would like to ask Mr. Thurman a question. If it is desirable that each stockholder of any insurance corporation shall in the future be individually and personally liable, etc., why is it not also desirable that any corporation incorporated in the past—the stockholders should also be responsible? I do not see why we should discriminate in favor of any corporation already existing.

Mr. THURMAN. It might be very

desirable, but it would simply be unconstitutional. It would be in violation of the Constitution of the United States, which says that the state can make no law impairing the obligation of a contract. Now, when they entered into a corporation they entered into a contract in the first place. What was that contract? They contracted with the law as it was, and that was that they were liable to the amount of their capital stock subscribed and paid up—and no doubt a clause in their articles to the effect that the personal or private property of the stockholders should not be liable for the corporate debts. Now, we come along after that contract is formed on that basis, and by an enactment here, can we say that that contract shall be impaired by declaring that the liability shall be doubled? I say no. I do not care what declaration we make, it is void in so far as it impairs the obligation of a contract.

Mr. SQUIRES. Then the same rule would apply to section 32, relating to banks?

Mr. THURMAN. We will climb that hill when we come to it. I believe that was your language a while ago.

Mr. BOWDLE. Mr. Chairman, I want to coincide exactly with what Mr. Thurman has said. If I had been near him, I would have given him a book which I have here, Morrowitz on private corporations, that covers exactly the proposition Mr. Thurman has laid down:

Whatever doubt there may be as to the correctness of the doctrine that a charter of a corporation embodies a contract between the state and the incorporators, there can be no doubt that the charter of an ordinary business corporation embodies a contract among the corporators themselves. The shareholders of such a corporation may agree to unite for the purposes indicated in their charter. Each shareholder agrees to contribute his proportionate share of the capital of the association, and each in return becomes entitled to a share in the profits and

in the management of the corporate affairs. The agreement thus created is in the strictest sense of the word a contract, and every reason exists for treating it as a contract within the meaning of the provision of the Constitution of the United States, that no state shall pass any law impairing the obligation of contracts.

So that, as far as the Home insurance company is concerned here, or any corporation that is incorporated at the time this Constitution shall be adopted, we cannot affect their rights, nor increase their liabilities, and section 2 with its declaration cannot compel them to make a single change in any contract they have entered into.

Mr. BUTTON. Mr. Chairman, in view of there being so many members absent, I move that we arise and report progress.

The question being taken on the motion to strike out section 25, the committee divided and by a vote of 31 ayes to 27 noes, the motion was agreed to.

The motion to rise and report progress was rejected.

The count being challenged on the vote to strike out section 25, the vote was retaken and stood 31 ayes to 28 noes.

Section 26 was read.

Mr. James offered the following substitute for section 26:

The Legislature shall enact laws compelling each company, corporation, association, or individual, doing an insurance business in the State of Utah, to deposit with the state treasurer of Utah, in money or its equivalent, such sum as they may deem sufficient to protect policy holders, or in lieu thereof, require such company, corporations, associations, or individuals, to hold unincumbered an equal amount in value of real estate, subject to the order of the secretary of state, as a guaranty fund for the security of policy holders.

Mr. JAMES. Mr. Chairman, in support of this substitute that I offer, I will have this to say: When the committee on corporations was formed, they adopted a policy of sending out a communication to all corporations and

associations, and even business men, in this Territory as far as they could reach them. We addressed the insurance companies. The insurance companies neglected to answer our communication. The chairman of the committee had several conversations with gentlemen doing an insurance business here, and some other members of the committee had conversations as well with others, but we were unable to get any information. Knowledge came to the committee that there was probably no set of institutions, associations, or incorporations, in this Territory doing business, that were doing greater injury or wrong to the public than insurance companies. We found out that there had been a company which came into this Territory a few years ago from California and did a large amount of business. They had gone into one mining camp and the miners almost in a body went into that company. It was a life and accident company. There were a great many claims against that company, but not one man in that mining camp in Park City ever received one cent back, although thousands of dollars of those poor men's money was taken from them and went into the pockets of these individuals that were robbing the public.

Mr. THURMAN. If that be true, why do you want to strike this out and put in something that has no effect at all?

Mr. JAMES. Did not I understand you, in a conversation with you, that we would have to do something regarding that section?

Mr. THURMAN. Reduce the amount?

Mr. EVANS (Weber). I would like to ask a question right there. If the policy holders are the ones that you want to protect, why do you want to relieve the stockholders from individual liability?

Mr. JAMES. Simply because the stockholders do not live here and that section does not cover them. We cannot get at them. They live in Califor-

nia. Well, then, we also learned of another company in Salt Lake City that organized and started in to do business, but we were not able to ascertain as to the amount of business that they did, whether it was very extensive or not, but it seems to me that they got some one to make oath that they had collaterals or something that our present statute requires, to the amount of two hundred thousand dollars, and they started out and did some business, and we understand that people were robbed through that company. Then, about the time that this matter was being considered by the committee—this insurance matter, there came to my observation some information regarding an eastern insurance company, that is called the Mutual Reserve Fund Life Association. I had quite a good deal of knowledge of my own regarding that company.

Mr. SQUIRES. Is that the New York institution?

Mr. JAMES. Yes, sir. Now, I know of over a hundred thousand dollars of insurance that they took in this town between eight and ten years ago, and some of it about twelve years ago. The life of the company was about twelve years. I know one gentleman, that is a member of your Convention here, that has a fifteen thousand dollar policy in that company. I know another that has a ten thousand dollar policy in that company. I know a prominent business man in this town that has a twenty-five thousand dollar policy. I know another that has a twenty thousand dollar policy. I know several that have fifteen thousand, several more that have ten thousand, and some five thousand.

Mr. MALONEY. Now, if all that be true, why not say here, "life or accident?"

Mr. JAMES. I will answer that as I go along. Now, the information that comes to me from the New York Herald

states that this company has been practicing the most high-handed and outrageous fraud. I find here, stated by the commissioner of insurance of the state New York—

Mr. EVANS (Utah). Mr. Chairman, I arise to a point of order. The gentleman has occupied his five minutes.

The CHAIRMAN. The gentleman has not occupied five minutes of his own time. He has been interrupted by questions.

Mr. THURMAN. Mr. Chairman, I make the point of no quorum.

Mr. BUTTON. Mr. Chairman, I move we arise and report progress.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole beg leave to report that they have had under consideration the article on corporations other than municipal, and report progress.

Mr. SQUIRES. Mr. President, I move we now adjourn.

Mr. Cannon, in the absence of the president, was called to the chair.

Mr. ANDERSON. Mr. President, I move we take a recess until 7:30.

Mr. SQUIRES. Mr. President, I arise to a point of order. Under Roberts' rules, whenever it is discovered in committee of the whole that there is not a quorum, the only thing to do is to rise and report progress to the Convention, and then there is nothing for the Convention to do but to adjourn.

Mr. EVANS (Weber). Mr. President, I arise to a point of order. My point of order is that it has not been ascertained that there is no quorum present.

The PRESIDENT pro tem. The point of order is well taken. The secretary will call the roll.

A roll call showed no quorum present.

On motion, the Convention then adjourned.

FIFTY-FIFTH DAY.

—
SATURDAY, April 27, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Howard, of Emery.

Journal of the fifty-fourth day's session was read and approved.

Mr. Keith was excused for a few days.

File No. 378 was presented, asking that a woman's suffrage clause be placed in the Constitution. From Wayne County, 250 names; from Salt Lake City, 15 names; from Uintah County, 450 names; from Rich County, 91 names; from Washington County, 9 names, from Garfield County, 133 names, by Chidester, of Garfield.

File No. 379 was presented, signed by Isaac O. Brown, and 425 others from Kane County, by Robinson, of Kane.

Ordered filed.

Mr. Roberts offered the following resolution:

Whereas, Convention rule 32 requires that at a reasonable time, to be determined by the Convention, and at least five days before final adjournment, the committee on engrossment and enrollment shall be instructed to accurately engross and enroll the Constitution, therefore, be it

Resolved by the Convention, that one hour and a half each morning shall be devoted to hearing read those articles of the Constitution which the committee on compilation and revision have prepared, and that when finally adopted by the Convention, said articles pass into the hands of the committee on engrossment and enrollment, which committee is hereby authorized to direct the engrossing clerk to engross the same on suitable material preparatory to final reading and signing of the document.

Mr. ROBERTS. Mr. President, I wish to call attention to this fact, that unless some step of this kind shall be taken, we will have completed our rough draft of the Constitution, and then we will have to wait some time for the committee on re-

vision and compilation to complete the last article, if we are going to wait for them to present the Constitution as a whole, after passing through their hands; and then, I take it, sir, that there will be some delay before the final adoption of this instrument and passing it into the hands of the committee on enrollment and engrossment, and this Convention would be held here for some time awaiting the engrossment of the Constitution. But if this resolution shall be adopted and we devote an hour or an hour and a half each morning to considering those articles that are reported by the committee on compilation and arrangement, they can then pass into the hands of the committee on enrollment and engrossment, and we will have things running parallel, and the amount of delay that the committee would be subjected to would be materially decreased. It is out of these considerations that I offer the resolution to the Convention.

Mr. THORESON. I see by the resolution that it provides that they engage some person to engross the Constitution. Is not that the duty of the clerk that we have engaged for that purpose?

The PRESIDENT. Yes.

Mr. ROBERTS. Well, if that is true, instruct him to proceed. I did not know what condition that was in, in fact I did not know we had an engrossing clerk. If you have an amendment to that effect, I will accept it.

The PRESIDENT. I would state that the engrossing and enrolling clerk is now trying to get the proper paper upon which to do the engrossing.

Mr. ROBERTS. I think the resolution there requires that suitable material be obtained. I presume that that would be parchment if it can be had.

Mr. THORESON. Mr. President, I am very much in favor of the resolution, and I wish to state that the chairman in behalf of the committee on compilation and arrangement—that this

meets the hearty approval of that committee and we are working to this end.

Mr. RICKS. Mr. President, I am opposed to the resolution, because I do not think it is necessary. I understand from the chairman of the committee on compilation and arrangement that all the articles that have passed this Convention are now ready to be presented to this Convention. The only thing that we are waiting for to-day is to have that calendar cleared there, so that we can consider them, and if the calendar can be cleared this afternoon, we will go through all the Constitution that has passed the Convention this afternoon. It will then go to the engrossing clerk. There need be no delay whatever when we get the calendar cleared, and I don't think the resolution is necessary at all.

Mr. THORESON. Mr. President, just in explanation, I wish to state that there have been objections made to the committee on compilation making any report at all until the entire Constitution is passed. I understand by this resolution that that committee can report in part, as the compilation has passed, and the engrossment will commence immediately, and this I consider will expedite the work.

Mr. RICKS. Mr. President, the question has been raised whether this motion is in order, inasmuch as it involves a suspension of the rules. I move as an amendment to the motion that the rules be suspended and that the committee on compilation and arrangement be requested to report their work as fast as possible to this Convention. I think that will do away with the resolution entirely.

Mr. ROBERTS. Mr. President, I think there is no reason why that should be done, as this resolution is in strict accord with the rules of the Convention, and especially meeting the requirements of rule 32. I hope we are within five days of the close of this Convention, and certainly the action contemplated

by rule 32 ought to be provided for, and this work of engrossment and enrollment ought to be set in motion. Something ought to be done to meet this rule, and with that in view I have drawn up this resolution.

Now, sir, with the indulgence of the house, I wish to call attention to the necessity of some step of this kind. In the first place, for this Convention to complete the Constitution and then wait while the committee on compilation and arrangement shall complete its revision and then have five days elapse before the Convention has the Constitution finally engrossed, is unnecessary. We want to place this work in such condition that it can all be going on at the same time. The articles of the Constitution are so distinct in their nature, and I am sure have received such careful consideration by the committee on compilation and arrangement—for instance the article called the bill of rights, and perhaps the article on executive, the article on legislative, the article on judiciary, could be considered we will say one morning, and then they could go to the engrossing clerk and that work be going on, and then the next morning we could consider three or four other articles that have been finally finished at the hands of the committee on compilation and arrangement, pass upon them and let them go on to the engrossing clerk.

Mr. RICKS. I do not think that resolution contemplates that. It says after they have all been passed upon by the Convention, then it goes to the engrossing clerk.

Mr. ROBERTS. It says such articles as have been passed.

Mr. RICKS. Then I have no objection to the resolution.

Mr. LUND. I will ask if that does not read, when they are finally adopted they go to the engrossing and enrolling clerk?

Mr. ROBERTS. It is the articles as finally adopted, as for instance say,

Monday morning we consider in the hour and a half devoted to that, the article entitled declaration of rights, the article on executive, the article on legislative. Each as it is finally accepted by the Convention then goes to the engrossing clerk and not the complete Constitution. I am sure it is the meaning and it is expressed.

Mr. RICKS. Mr. President, there is one amendment I would suggest. It says an hour and a half each morning. I should suggest an hour and a half each day.

Mr. ROBERTS. I have no objection to that, although the morning would be a good time.

Mr. CRANE. Mr. President, I will say for the committee on compilation and revision, that about next Tuesday we shall have fifteen of the articles revised, compiled, and printed for the use of the Convention. It was thought advisable by a majority of the committee, I believe, that we should have the bill of rights, legislative, executive, and ordinance printed at the same time, so that that there will be no conflict between any of the sections that might be introduced. It has been thought by some of the prominent members of the Convention that we could not do that, that there might be a conflict between some of the sections, and that no article should be introduced for the final passage before this body until the whole Constitution was printed before them, so that each and every member can look for himself. But I am impressed with the fact that this resolution of the gentleman from Davis County is a good one. It will certainly save us four days at the close of the Convention.

Mr. CREER. I just wish to make a suggestion, to change the word, inasmuch to whereas.

Mr. ROBERTS. I have no objection.

Mr. HART. Mr. President, the resolution appears to me to be a very wise one to adopt at this time, but it also occurs to me that it will overrule rule

number 22. I think it will entirely change the latter part of that rule, and I think it should go to the committee on rules as a matter of course before the Convention passes upon it. I raise the point of order that under our rules it be referred to the committee on rules.

Mr. ANDERSON. Mr. President, I move that this be referred to the committee on rules.

Mr. EVANS (Utah). Mr. President, I would move to amend, by suspending the rules on the adoption of this resolution.

Mr. CHIDESTER. I move the previous question.

The previous question was ordered.

The resolution was adopted.

Mr. CORAY. Mr. President, I desire to offer the following resolution:

Resolved, that the sergeant-at-arms be directed to spread the names of the tardy members on the bulletin board, and that the aforesaid be required to produce a reasonable excuse for said tardiness, and that in the absence of such excuse said members be reprimanded by the president for slothfulness.

I move its adoption.

Mr. BUTTON. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I have a resolution I wish to offer:

Resolved, that the secretary record upon the journal of the Convention the names of all absentees and also the names of members excused by the Convention from attendance.

Thus far there has been no record kept upon our minutes of the names of absentees. There has been no incentive to attendance, that is so far as that is concerned. A member might go about his business for two weeks and no one was the wiser for it. He drew his four dollars per day, just the same as the member who faithfully attended upon this Convention. The situation that has confronted us the last day or two sug-

gests the propriety now of enforcing the attendance of members of this Convention. There are some members that should be excused, but the Convention should pass upon the necessity of excusing them, and from this time on I am in favor of keeping a strict record of those who absent themselves, and permitting members to be absent only upon consent of the Convention.

Mr. CORAY. Mr. President, I concur in what the gentleman from Cache says. There seems to be a disposition now upon the part of members to stay away and go home, and a great many of the Salt Lake delegates are tardy. It is almost impossible to get some of the members here. It is the duty of every member to stay here until the work is thoroughly done.

Mr. THURMAN. Mr. President, I do not know whether that resolution is wise or not. Is it not a fact that we get along better when there are only about half of us here?

Mr. EICHNOR. Yes, sir.

Mr. CHIDESTER. Mr. President, that may be true, as suggested by Mr. Thurman, but I suggest they have no right to draw their pay.

Mr. THURMAN. We are not drawing any pay. The pay has been stopped days ago.

Mr. CHIDESTER. There may be a little to come yet and those that do attend and make the Constitution should have it.

Mr. EVANS (Weber). Mr. President, I move that the resolution be tabled.

The motion was rejected.

The resolution was adopted.

Mr. BUTTON. Mr. President, I move to suspend the rules, and that no members be allowed to speak more than three minutes on any question.

Mr. RICKS. Mr. President, I would amend by making it one minute.

Mr. IVINS. Mr. President, either of these motions is entirely inconsistent. There will be some very important matters yet to come before this Con-

vention, and it seems to me that it is unreasonable to say that no man shall occupy more than three minutes on this floor. I am entirely opposed to any such motion prevailing.

Mr. BUTTON. Mr. President, I have sat here and listened to members putting in resolutions and withdrawing them and spending three or four hours over them. Now, if we get this through we will have less time on these resolutions that are put in, just for somebody to make an effort.

Mr. MORITZ. Mr. President, I wish to state that I am opposed to that rule; we probably have not enforced the five minute rule yet.

The motion of Mr. Button was rejected.

The Convention then resolved itself into committee of the whole, with Mr. Van Horne in the chair.

Mr. JAMES. Mr. Chairman, at the adjournment of this committee yesterday evening—I will be as brief as I possibly can, in calling the attention of the Convention to this matter. The reason why I offered to strike out the first section, which I was explaining yesterday afternoon, at the time of the adjournment, was as I explained to you yesterday; we found that there was a vast difference between insurance companies. We found that fire insurance companies had not created a dissatisfaction that life insurance companies had created. We found further that fire insurance companies had not been the cause of impositions upon the public that life insurance companies had. We found further that a uniform deposit as a guaranty fund for the protection of policy holders was not practicable, for the reason that one company may have a capitalization so that it is able to do a hundred thousand dollars' worth of business in a year and another may not be able to do twenty-five, although each company may be absolutely sound. For that reason, I concluded that the best thing I could do was to draw up this

resolution which you have before you, and have it presented to the Convention, so that the Legislature might fix some sum as a guaranty fund for the protection of the policy holders, and that therefore that guaranty fund might be increased in proportion to the amount of business engaged in our community by these companies. In answer to Judge Maloney yesterday evening as to why I did not strike out the words "fire insurance," and fix a hundred thousand dollars for life insurance, it was this very reason. Some very good companies would be unable to do any business at all, and it would practically put the business into the hands of a monopoly. For that reason I offered this resolution. I do not believe that there is any class of business in Utah that deserves the attention of the Legislature any more than this insurance business, and I believe we ought to pass this resolution, and if it is not strong enough, make it stronger. I do not say that I have made that resolution as perfect and as strong as it should be. I have simply done the best I can, and I hope if any members of this Convention can see any opportunity to improve that resolution, they will take up the opportunity. Insurance companies to-day are controlled by combines just as complete as any combine can be. The sugar trust, the trust with its oil and with its white lead, and a dozen other combinations are no more complete combines than this business, and I am sorry for the insurance men of this town, after having investigated the business, that do not dare to come to me and write a policy without the consent of the combine in San Francisco. I say, when men are tied up hand and foot in that sort of manner, it is time that this Convention put the matter in shape so that the Legislature can take it up and deal with it intelligently and so as to correct these evils as far as possible. It cannot be done in this Convention. It

is a detailed proposition of legislation that we cannot go into and we cannot handle it, but let us do the best we can.

Mr. MALONEY. Mr. Chairman, I am opposed to the substitute. I want to know what good it is to the policy holders for the company to be subject to the control of the Legislature of Utah, what officer is to look after this land, see the value of it, see whether or not it is encumbered or not. I say the resolution is not worth the paper it is written on, and if that is the only security that policy holders are to have in this Territory, we might as well not have any. Now, I am opposed to it from the beginning to the end. This committee unanimously passed upon this section 26. I do not care whether it applies to fire insurance companies or not. It is originally intended to reach life and accident companies, and not fire companies. There is no complaint here against fire insurance companies. I am unable to see why the chairman of this committee now moves to strike out more of the sections of the article than any of the other delegates in this Convention.

Mr. JAMES. Do not you admit, Judge Maloney, that that section has got to be amended as it stands before this committee?

Mr. MALONEY. Just amend it so that it applies to life insurance companies.

Mr. JAMES. Then amend it as you please. I will support you.

Mr. MALONEY. Then, I will move an amendment, to insert the words, "life or accident." Then it lets out all the fire companies. I have never had any complaint against them.

Mr. BOWDLE. I want to ask Mr. James a question, if this section was stricken out, would not the Legislature have complete control of the whole business?

Mr. JAMES. Why, I think that question answers itself. We understand

that it does. Is there anything then that compels the Legislature to give this matter attention, I ask you, to prevent this robbery that is going on by these wildcat companies? The insurance men do not object to the legislation that will keep insurance business on a safe basis. They ask to have it done. In answer to Mr. Maloney, so far as the insurance companies are concerned, the strongest insurance companies in this town admit that something should be done. To Mr. Evans and me, the man that does one-third of the business in this town, admitted that a deposit should be required of fire companies.

Mr. BOWDLE. As I understand this substitute, there is no amount fixed. It simply says to the Legislature, you must do something. It may be a dollar bond or a ten dollar bond. That would be the interpretation would, it not—leaving it perfectly optional with the Legislature?

Mr. EICHNOR. I would like to ask Mr. Maloney a question. I think I understood your amendment that life and accident insurance companies would be required to put up a deposit say of a hundred thousand dollars?

Mr. MALONEY. Yes, sir, I understand that the main companies of Utah have made no objection to it at all.

Mr. EICHNOR. I do not want to be understood as objecting. I had enough of railroad companies yesterday, but will your amendment preclude or nullify any insurance that was taken out, outside of the State of Utah, and the person should happen to move into the State?

Mr. MALONEY. Oh, no.

Mr. THURMAN. Mr. Chairman, I desire to say one or two words in opposition to the substitute. I hope the substitute will not prevail. I think it is useless in every sense of the word. If we want to do something, if something must be done, let us do it here. Whatever must be done should not be left to

the Legislature. The Legislature would have full power to do all this business anyway. I am in favor of the amendment, when it is in order, proposed by the gentleman from Weber. I do not know that a hundred thousand dollars is the proper amount. If it is too much, cut it down, but as far as the principle goes, I am in favor of it.

Mr. SQUIRES. Mr. Chairman and gentlemen, this question just spoken of by Mr. Thurman of the sum to be deposited by these companies—ought it not to be left so that it can be fixed in proportion to the amount of business transacted by each company? One company may do ten thousand dollars' worth of business and another a hundred thousand. It would be hardly fair, it seems to me, to compel them both to make the same deposit.

Mr. BUTTON. Is this the substitute we are talking about?

Mr. SQUIRES. The original section is just as much before the house as the substitute or the amendment. I should be in favor of this section as it stands, if it could be so amended as to make the amount of deposit in comparison to the volume of business transacted by each company in the Territory.

Mr. MALONEY. The trouble about that is, no one knows the amount of business they are doing, unless their reports filed with the secretary of state will tell.

Mr. SQUIRES. Then the other trouble is that we are stating the figure so high that we will rule out a whole lot of good safe companies, and if that is the case, the matter should certainly be left to the Legislature so that no injustice will be done to any company.

The question being taken on the adoption of the substitute offered by Mr. James, it was rejected.

The CHAIRMAN. The question recurs upon the amendment proposed by Mr. Maloney.

Mr. MALONEY. Mr. Chairman, at the suggestion of the gentleman I will

move to insert the words, "until otherwise provided by law."

Mr. JAMES. Mr. Chairman, I cannot help but oppose this proposition. Whenever a proposition comes before this Convention that will be an injustice to some company or a hardship, I am going to vote against it. As I said to you before, there is no use of my going over this ground again. There are companies that are perfectly sound; people would just as soon insure in them as any other company that can afford to put up a hundred thousand dollars, and others that cannot put up to exceed five. Now, is that any sort of a proposition for this Convention to adopt?

Mr. IVINS. Mr. Chairman, I move that section 26 be stricken out. My only reason for not supporting the substitute offered by Mr. James was that I believed the whole matter ought to be left to the Legislature, that they will have ample power to act, and they will act, and therefore, I favor the striking out of the section.

Mr. JOLLEY. Mr. Chairman, I move that in line 8 the words "one hundred thousand dollars" be made to read, "fifty thousand dollars."

Mr. BOWDLE. Mr. Chairman, if I understand the amendment it would apply to all secret societies would it not?

Mr. IVINS. That is right.

Mr. BOWDLE. No question about it. If any of you men are in the Masonic association or have a life insurance in that, or if you are an Odd Fellow, or belong to any other secret society and carry beneficial policy in that, and such an association wishes in this Territory or coming State to write any such insurance—

Mr. BUTTON. May I ask the gentleman a question?

Mr. BOWDLE. Just wait until I get through and I will answer you, gentlemen. There is no question about that, gentlemen. I don't carry a policy in any of those associations of which I speak,

although I carry considerable insurance, some in the regular old straight line and so on; but I submit to you, gentlemen, that that would strip the Woodmen of this city. I understand they have quite an organization here—and all that class of insurance. And I know there are poor men in this city that are carrying that kind of insurance, and that in a number of cases of death it has been the sole protection of the families of those men, and I am opposed to that kind of legislation here that will bar the poor man from getting the insurance he can carry by paying his little monthly installments as he goes along.

Mr. BUTTON. The gentleman yesterday got up and read a long speech citing authorities that any corporation or association doing business in this Territory would be exempt. I want to ask the gentleman if the Odd Fellows or the Masons or Woodmen or any other of the secret societies in this city that were doing business would be affected by this?

Mr. BOWDLE. I would answer your question most emphatically and unequivocally, it would affect them.

Mr. BUTTON. That was not the decision you read yesterday.

Mr. BOWDLE. No, sir; that was a different question. In the case that we were discussing yesterday, it was of a corporation organized before the adoption of this Constitution, which would depend upon two things; first, there is an implied contract with the State that that corporation shall do business according to the arrangement they have entered into. That does not cut much of a figure in the courts, and in the decisions and in the text writers, but there is a contract between the stockholders in that corporation—a sacred contract that you cannot impair. Now, all the insurance that is written up to-day would not be affected, but you want to go into an association of that kind; you are not a stockholder or

a policy holder in it. It would affect all subsequent contracts of that kind.

Mr. EVANS (Utah). Mr. Chairman, it seems to me that as many men as there are here, there are just about that many opinions, and I think that we ought to vote down all these amendments, and vote to strike out this section entirely and leave it to the Legislature, and perhaps they will be able to ascertain about what would be right, and if it should be found that whatever they may fix upon has been an error, it will be in the power of a future Legislature to recall, and I am in favor of striking this out.

The amendment proposed by Mr. Jolley was rejected.

The amendment offered by Mr. Maloney to insert the words, "until otherwise provided by law," was rejected.

The remainder of the amendment offered by Mr. Maloney was rejected.

Mr. HART. Mr. Chairman, the only thing to do now, it seems to me, is to strike out the entire section. This amount is altogether too high.

The motion to strike out section 26 was agreed to.

Mr. BARNES. Mr. Chairman, I move that section 27 be stricken out.

The motion was agreed to.

Section 28 was read.

Mr. CHIDESTER. Mr. Chairman, I move to strike out section 28.

Mr. IVINS. Mr. Chairman, I move that the words "semi-annual" be stricken out of line 4 of section 28, and the word "annual" inserted in lieu thereof.

Mr. CHIDESTER. Mr. Chairman, until this motion is made, I will withdraw the motion to strike out.

Mr. IVINS. Mr. Chairman, in the confusion, I did not hear the motion to strike out. If there is a motion to strike out, I will withdraw the amendment until that is determined, because I prefer myself to have the whole thing stricken out.

Mr. EVANS (Utah). Mr. Chairman, I

am opposed to striking this section out. I think that when companies organize in this State for the purpose of doing business, it will be a protection for citizens to know their standing, and I am in favor of asking the Legislature to require that they shall make reports. I have no objections, however, to the amendment, as suggested by the gentleman from Washington; perhaps semi-annually will be too often; but I hope that the motion to strike out will not prevail. It ought to remain in there. The citizens ought to have an opportunity of knowing the standing of the companies.

Mr. CANNON. Mr. Chairman, I quite agree with the last speaker, that it is a good thing for the public to know the standing of the company through its published statement, but I disagree with him in placing it at this time in the Constitution. I believe it should be left to the Legislature, and I think the Legislature will take the pains to regulate that matter. It has always done so in the past, and I am in favor of striking out.

Mr. SQUIRES. Mr. Chairman, I am in favor of striking out the whole section, but before we take a vote upon that it might be well to correct it in case it did not go out. I should like to see stricken out, in line 5, after the word "expense," these words, "for the information and protection of the people." It does not make any difference what they make the report for or what the object of the report is, so that it is made and printed.

Mr. JAMES. Mr. Chairman, I think that the gentleman has misapprehended the purpose of those words. The purpose of those words in this section is to compel a statement that will set forth what business they have done, and as the Legislature may determine how they have done it in this Territory, so that it will become a protection, that business may not run loose and slipshod

and leave matters in a way so that the public may be taken advantage of.

Mr. MALONEY. Mr. Chairman, I would like to have the chairman of the committee say one word in favor of the report.

Mr. JAMES. In answer to the—

The CHAIRMAN. Mr. Preston has the floor.

Mr. PRESTON. Mr. Chairman, I am very agreeable to the amendment that is made here, but I think section 28 ought to be stricken out. I think the Legislature ought to be required to give us information concerning those companies at least once a year.

Mr. IVINS. Mr. Chairman, the question has been sprung as to whether in case the motion to strike out shall prevail, it will still be open to amendment; some of the members are of the opinion that it will not, that amendments to perfect it will first be made. Now, if there is any doubt in regard to this question, I want a vote on my proposed amendment, in line 4, before a vote is taken.

Mr. HART. Mr. Chairman, I think I can give the necessary information on that point. When amendments are made to a section, or any member desires to make any amendment to a section, those amendments should be put before the motion to strike out, but if, after all the amendments are put, and the motion to strike out is put and not carried, the section is still open to amendment under our rules.

The amendment of Mr. Squires was agreed to.

The CHAIRMAN. The question is on the motion of Mr. Ivins to make the report annually instead of semi-annually.

Mr. CANNON. I would ask the gentleman if he would not accept the amendment making it this way: "To make reports at least annually to the governor;" so that it will not prohibit reports being required to be made oftener if necessary.

Mr. IVINS. I would prefer the amend-

ment just as I proposed it, Mr. Chairman.

Mr. THURMAN. Mr. Chairman, I am opposed to the motion, on thinking over the effect it may have. It will limit the power of the Legislature so that they can never require these companies to make a report oftener than that if they see fit. I don't think we ought to do that. There may be a reason for requiring a semi-annual report.

Mr. EVANS (Weber). Mr. Chairman, I want to state, too, that banks are all required to make quarterly reports, and I see no reason why an insurance company should not make reports twice a year. I am opposed to the striking out of the word semi.

Mr. STREVELL. I would like to ask if this be stricken out, in case we had an insurance commissioner, if he could call on the insurance companies for a statement at any time? First, I thought it should be left so that if a special statement was wanted we could call for it and have it.

Mr. IVINS. Mr. Chairman, my purpose in making this motion is this: Those who are acquainted with the insurance business know that it requires a great deal of time for these insurance companies, which are doing business all over the country, to prepare these reports, and if you require them to make a semi-annual report, they will be almost continually engaged in the work of making the reports. If an annual report is published, and that the present law requires, and there is no doubt but that future Legislatures would still require it—this seems to me to be sufficient. It is for that reason that I wish this change made.

Mr. EVANS (Utah). Mr. Chairman, I move to amend by striking out "semi," in line 4, and inserting in lieu thereof, "make at least annual reports to the governor." That will make it proper for them to require quarterly or semi-

annually or anything else, but they must do it at least once a year.

Mr. JAMES. Mr. Chairman, I hold now that it is merely encumbering the Constitution to adopt this section. All the benefits that were in the section have been stricken out. The Legislature has required of all insurance companies in this Territory to make an annual report, and that annual report is made. I defy any man on this floor or anywhere else in this Territory, to take that annual report, and use it, for any protection whatever for himself, or to give himself any information. It is just merely what you see on the walls of all insurance companies, that they have so many millions, and that is all you get. Now, for heaven's sake, what do we want to encumber our Constitution with a provision of that kind for? This section provided that they should make a report for the protection and benefit of the policy holders. That has been stricken out. Now, gentlemen, let us strike it all out.

Mr. THURMAN. Second the motion.

Mr. THORESON. Mr. Chairman, I believe it will be proper at this stage of the proceedings to strike out the words, "William F. James, Chairman," at the end of this article.

The CHAIRMAN. The gentleman's remark is out of order.

Mr. JAMES. I say, Mr. Chairman, such remarks as that should be—

The CHAIRMAN. Mr. James has not been recognized by the chair yet.

Mr. CHIDESTER. I arise to a point of order. The gentleman has spoken once.

Mr. JAMES. I asked the chairman to require personal remarks made before this Convention to be withdrawn.

Mr. THORESON. Mr. Chairman, I withdraw the remark.

Mr. BARNES. Mr. Chairman, I think that careful consideration of this subject will show us in advance that the section is unnecessary and no protection whatever. The law already pro-

vides for an annual statement to be rendered. I favor the striking out of the section entirely.

The amendment of Mr. Evans of Utah was agreed to.

Mr. THORESON. Mr. Chairman, I move to strike out the word "print," in line 4 of this section, and insert "published" in lieu thereof.

Mr. RICKS. Mr. Chairman, I arise to a point of order. I think the vote ought to be continued until we finish up before making any more amendments.

Mr. BARNES. Mr. Chairman, I move to strike out the section.

The motion was agreed to.

Section 29 was read.

Mr. BUTTON. Mr. Chairman, I move to strike out all after "thereto," in line 7. That is covered in two or three places already in this Constitution.

Mr. JAMES. Mr. Chairman, I hope that that proposition will not prevail. This proposition is submitted to you after consultation with the best bankers in Salt Lake City, the oldest and the largest, and not only from them has come information regarding that, but from individuals. This provision is the same provision that they have in the state of New York, which is said to be the best that there is in the United States, and is the one from which the national banking law was enacted, and the only difference between this and the New York state bank provision of the same section is it is curtailed to about one-half, for the reason that it was thought the New York bank provision in its full force would be too stringent for our institutions here in Utah.

Mr. BARNES. Mr. Chairman, I perceive by reading section 29 that the matter that is proposed to be stricken out refers directly to banking purposes. I think it is all right as it stands there, sir.

Mr. CANNON. Mr. Chairman, I am in favor of retaining the part proposed

to be stricken out. While it may be possibly covered in substance in other parts, this refers especially to banking, and provides that no special charter shall be granted. I think it should remain.

Mr. BUTTON. Mr. Chairman, in the first section of this article on corporations, it is covered, and it is covered in two or three other places.

The question being taken on the motion, the committee divided and by a vote of 33 ayes to 31 noes, the motion was agreed to.

Mr. RICHARDS. I desire to ask the chairman of the committee the meaning of this section—what now remains of it, in this particular; it says the Legislature shall, by general law, conform all charters of banks or institutions for banking to a uniformity of powers, rights and liabilities, etc.? I want to know whether this means that the charters of banking institutions in existence at the time of the adoption of this Constitution will be remodeled.

The CHAIRMAN. Mr. Button, you must maintain order when gentlemen are speaking.

Mr. BUTTON. I will try and not disturb them.

The CHAIRMAN. Mr. Sergeant-at-arms, call Mr. Button before the bar of this house.

Mr. VARIAN. Mr. Chairman, are we in committee of the whole? If we are, I suggest that the proceedings are irregular.

The CHAIRMAN. The only thing is that when the chair calls order for gentlemen speaking before this committee, the order of the chair must be obeyed.

Mr. BUTTON. I am willing to come before the chair if I disturbed the gentleman.

The CHAIRMAN. The gentleman will take his seat now. It is all right.

Mr. BUTTON. I want to apologize to the gentleman if I disturbed him.

The CHAIRMAN. Very well.

Mr. BUTTON. Mr. James, did I disturb you?

Mr. JAMES. No. It was Mr. Richards.

Mr. BUTTON. Oh!

Mr. RICHARDS. The gentleman did not disturb me at all.

The CHAIRMAN. He disturbed the chair. If the chair is well advised about it, it is under the impression that there is a rule against gentlemen talking on the floor of this committee, while gentlemen are addressing the committee, and it was to avoid a violation of that rule that the chair called Mr. Button to order.

Mr. BUTTON. I had not spoken a word or even whispered when the chair called me to order—not even whispered.

The CHAIRMAN. It was very singular, the chair heard the sound from there and saw the gentleman leaning half way or more across the table.

Mr. BUTTON. A man might lean over the table without speaking.

Mr. VARIAN. Is there anything before the committee?

The CHAIRMAN. Nothing, sir.

Mr. VARIAN. I call for the question.

The CHAIRMAN. Except the question of Mr. Richards to Mr. James.

Mr. RICHARDS. I asked the meaning of this language in section 29. I desire to know whether that language is intended to apply to the banks in existence at the time of the adoption of this Constitution, and whether those charters are to be made to conform to some general law; in other words, whether they are to be changed? I should suppose that the language was intended to apply to banking institutions created under the power of the State, but for what follows in that section. It seems to make a distinction there.

Mr. JAMES. This section, as I understand it, comes from the fact that there are two systems—well, you might say three systems of banking; there is the private banker, there is the state incor-

poration, and there is the national bank. Now, as I said to you a little while ago, this provision is an absolute copy from the constitutional act adopted a year ago by the state of New York, and before this committee adopted that section, the chairman sought the advice of our leading bankers here, and they said that it was, so far as they knew, the best provision for the regulation of banks that they knew of in the United States, and that was the information I got so far as it went.

Mr. RICHARDS. Then I desire to ask another question—whether the chairman, from the information that he has, understands that under this provision of law the Legislature could change the charters of existing banks, so as to make them conform to a uniform system.

Mr. JAMES. Well, I doubt that.

Mr. RICHARDS. Well, I have no doubt about it, Mr. Chairman, and this language evidently is intended to mean that.

Mr. JAMES. You will observe that at the beginning of this article there is a provision that in order to benefit by future legislation, corporations must accept the provisions of this Constitution. Now, that provision was put in there to meet just such difficulties as you have in your mind here regarding this section. The supposition is that under that provision which we passed yesterday, these corporations will conform to the provisions of this article, and that would bring them under that regulation.

Mr. RICHARDS. I do not understand, Mr. Chairman, that we can legislate in this Constitution to change the articles of incorporation of corporations existing at the time of the adoption of this Constitution. Now, it is clearly within the power of this Convention to provide in the Constitution that a uniform system of banking may be provided for, as to incorporations hereafter created, but it seems to me that we have no

power to change the articles of existing corporations. I therefore desire to move an amendment to what remains of this section. I am not prepared now to suggest the amendment.

Mr. THURMAN. Isn't it a fact that the latter part of the section as it now stands cures the objection you made?

Mr. RICHARDS. No, sir; I think not. I think that clearly points out and makes beyond question the objection that I do make. It might be if the language of the fore part of the section were there alone—I think the presumption would be and the proper rule of construction would be that it related to corporations created in the future, but as it stands, it clearly shows that it is intended to relate to something else, because the latter part here refers only to those hereafter created. I move that this section be stricken out.

Mr. THURMAN. Mr. Chairman, I am opposed to striking it out. There is no court that can or will construe the section as Mr. Richards says it may be construed. In the first place, it would be unconstitutional to do it, and therefore void. It would only apply to organizations after this Constitution goes into effect, and there ought to be a general law requiring banks to be uniform in the very particular here pointed out. It ought to be made as obligatory as possible upon the Legislature to pass that.

Mr. CANNON. I would like to ask you how you would conform to uniform powers, rights, and liabilities, the banks which are different in their character, for instance a national bank, or a state bank, or a commercial bank, or a savings bank, all of which are different in their character?

Mr. THURMAN. We cannot deal with national banks to the extent that we can other banks. I will admit that, because they are governed by the national law, but as far as other banks are concerned we can.

Mr. CANNON. Can you conform a

commercial bank and a savings bank to similar powers, liabilities, etc.?

Mr. THURMAN. I don't see why we cannot, as far their powers, liabilities, and rights go.

Mr. RICHARDS. I desire to say in reply to what the gentleman from Utah has said about what a court will do, that I concur with him fully, that a court would not give this an *ex post facto* construction. The court will hold that the language we have in here is absolutely void and does not mean anything, and as a member of this Convention, I do not want to be put in the attitude of placing language in this Constitution that I know is susceptible of that construction only and will receive such construction from the court.

Mr. STREVELL. Mr. Chairman, I move to strike out all after the word liability. It seems to me that would remove the objection Mr. Richards has and it would give general powers for creating banks.

Mr. CANNON. Mr. Chairman, I am opposed to the different amendments and am in favor of the motion to strike out. I find upon examining the late constitution of New York, of 1894, that the language used in this section is adapted from that, but some words are stricken out that change the meaning entirely. Section 4 of article 8 of the constitution of New York provides that the legislature shall by general law conform all charters of savings banks or institutions for savings to a uniformity of powers, rights, and liabilities. The language is the same, excepting that in the New York constitution they have it banks of a similar character. If you attempt to conform savings banks and commercial banks to like powers, rights, and liabilities, I believe you will run across a snag that you cannot get over.

Mr. ANDERSON. Mr. Chairman, I hope that this section may be stricken out. If it remains it will give the Legislature power to change the con-

tracts of those institutions that have their charters already, which I do not think can be done. Therefore, I think this should go out.

The amendment of Mr. Strevell was agreed to.

The motion to strike out was agreed to.

Section 30 was read.

Mr. CANNON. I move it be stricken out, Mr. Chairman.

Mr. EVANS (Weber). I would like to inquire of the chairman of the committee what that section means?

Mr. JAMES. I suppose the section answers what it means. It is to prevent a banking business being done otherwise, excepting upon specie. It is the exact language of the New York act, and is the one, as I said to you before, as a number of our leading banking men have said to me, that the national banking law was enacted upon.

The motion was agreed to.

Section 31 was read.

Mr. CANNON. Mr. Chairman, I think this section confers no power that the Legislature does not have. I move to strike it out.

The motion was agreed to.

Section 32 was read.

Mr. HART. Mr. Chairman, I move to strike out that section. We had a similar section yesterday in reference to insurance companies. I was in favor of having both of these sections adopted, but the Convention here struck out the section, making a similar provision for insurance companies, and now, in order to do justice to banks, I am in favor of striking out the other also. I suppose that every member who voted to strike out the insurance article will to-day vote to strike out this article, and those who were in favor of permitting the other to remain, certainly should be in favor of striking this out now, because it places a burden upon them that is not placed upon the other corporations.

Mr. VARIAN. Mr. Chairman, it oc-

curs to me that this is a different proposition. I was not here yesterday when the matter relating to insurance companies was discussed, but I think this is a very good proposition to be retained in the organic law. I think if there is going to be any system of state banking, a guard and protection like this ought to be thrown about the people who deal with the banks. I remember quite a pronounced case in favor of the efficacy of a law of this kind, occurring many years ago on the Pacific coast, when the bank of California closed its doors, and for a time paralyzed the financial and business enterprises of the entire coast; had it not been for the fact that the law of California was substantially as this is, the bank would never have opened its doors. It is a well known matter, known to everybody, and a matter of the current history of that bank, that it was the intention of the gentlemen who were largely interested in it—Mr. Mills and others, to let the bank go down, until they were advised by the attorneys of the bank that every one of them were liable to the extent of their private fortunes, as provided here, in a sum equal to the amount of stock held by them. They went to work then, and resurrected the bank. It took them several years to do it. But it paid every dollar to California, Nevada, New Mexico, Oregon, and all over the coast, and many hundreds of people recovered their money eventually, who never would have done so. I see no objection to people being required to be held to some liability of this kind, who enter into the business of banking with the people.

Mr. CANNON. There is also this difference, Mr. Chairman, and gentlemen of the committee, between the proposition of insurance and of banking. The insurance proposition would have affected existing insurance companies differently, or any new company differently, from the one now in existence, while

this proposition does not affect banks differently. Our present law is just as this provision is worded. It may not be in the exact language, but the meaning is exactly the same. Every stockholder in a bank is liable on his stock for an amount equal to that in addition. The people of Utah, so far as their banking institutions are concerned, have a good reputation. They have not lost through their incorporated banks. I believe there was one bank in Ogden, and one in Provo which temporarily closed, but which quickly reopened, owing to the fact that their stockholders were liable in the same way, and were compelled to make good the losses. I do not think any harm can be done, although it is a matter which could be attended to by the Legislature.

Mr. JAMES. Mr. Chairman, I must say a word regarding Mr. Hart's remarks comparing insurance to the bank. Now, it seems to me that it must be evident to all that there is a wide difference between insurance and banking. If he happens to have a little money that he wishes taken care of, he goes to the bank. If the humblest and poorest in the land have a dollar to be taken care of, they go to the savings bank and deposit it. The wealthy do the same. It is a place where everybody has to go, and it is a sacred trust—taking charge of the public funds, and it is a business that ought to be guarded by every possible protection that can be thrown around the people. The insurance business is a different proposition entirely. The insurance companies are where we cannot reach them, but there happens to be one little insurance company in Salt Lake City and we are going to reach that one little insurance company in Salt Lake City, that never wronged a soul out of a cent so far as we know of, and so far as we know are perfectly solvent and are going along attending to their business, while there are numer-

ous insurance companies doing business in Utah Territory that we have information of that have been imposing upon the public, robbing them of their funds, and it is impossible for the stockholders to reach those companies.

Mr. EVANS (Weber). Mr. Chairman, I should not say anything upon this matter, were it not for the fact that in our mad chase at striking out many provisions which I believe to be good, I fear that this will also be stricken out. I set my face firmly against the striking out of the liability of stockholders of insurance companies, and I am just as firmly against the striking out of this section. The stockholders of the national banks are made liable in addition to their stock to an amount equivalent to it. State banks are likewise made liable, and it has become a fundamental law of the land that stockholders of banks should be made liable in addition to their stock in order to secure the depositors. And I believe we ought to make the constitutional provision so that it will make our banking institutions safer, give our people more confidence in our institutions, and I believe that it would be for their safety, protection and benefit. I hope the section will not be stricken out.

Mr. PETERS. Mr. Chairman, I trust this section will remain as it now stands. We had very good reason for striking out thirty and thirty-one. They were from the constitution of New York. Most of us are aware that banks in New York in 1893 issued what was called clearing-house certificates. Those certificates were used as money and it was desirable by that constitution that that should not be. But now we come to a different proposition. Section 32 has no connection with 30 and 31. That is for the protection of depositors, and I hope will remain just as it is.

The motion to strike out was rejected.

Section 33 was read.

Mr. CANNON. Mr. Chairman, I move to strike out section 33.

Mr. JAMES. Mr. Chairman, this is the national banking exactly, and it is intended to apply to the state banks, when the ten per cent. may be removed, which would entitle them to go into business of issuing currency.

Mr. CANNON. I would like to ask why a man who goes in and deposits perhaps everything he has in the world in a bank, believing that bank to be solvent, should be secondary to the man who happens to have a bill of that bank.

Mr. JAMES. I will ask the gentleman if he does not consider the national bank law of the United States a sound proposition, and if every banker in this town does not know it?

Mr. CANNON. The national banking system may be the best thing that can be for a national bank, but I know of no reason why a man who may deposit everything he has in the shape of money in a bank should be made to be secondary to a man who holds a bill of the bank.

The question being taken on the motion, the committee divided and by a vote of 43 ayes to 23 noes the motion was agreed to.

Section 34 was read.

Mr. IVINS. Mr. Chairman, I move to strike out section 34. There is no provision here as to when this statement shall be made. It may be made once a year or twice a year, or once in five or six years; if I read it right, it seems to me to mean nothing. Therefore I am opposed to it.

Mr. BARNES. Mr. Chairman, if I read the section correctly, it says, as may be provided by law. The law now provides that the banks organized under the territorial law can be called upon at any time by the secretary of the Territory to make their reports. The national banks have to make it in conformity with the national act.

Mr. JAMES. Would our present law compel all styles of banks to make a report?

Mr. BARNES. I think not.

Mr. JAMES. That is why the provision is put in. The national banks are compelled to make a report. Some other banking institutions escaped that. This is put that way, so as to cover that.

Mr. BARNES. Banks kept by private individuals are not required to make statements, and I think that they should be.

Mr. CANNON. I would like to ask Mr. Barnes a question. The way the section reads, "every banking association" may be required. Is it not a fact that our present law compels every bank to publish a statement as called for?

Mr. BARNES. With the exception that I have before referred, yes, sir.

Mr. CANNON. I believe that is a fact. Every banker is required, excepting a national bank.

Mr. RICHARDS. Mr. Chairman, I am in favor of striking this section out for the reason that the section does not mean anything without legislation. Some part of it has got to be provided by law—when these statements shall be made; let the Legislature provide the whole thing. It seems to me it is purely legislation.

The motion to strike out was agreed to.

Section 35 was read.

Mr. VARIAN. I move to strike out that section. I am in entire accord with the evident purpose underlying the section. I want to call attention to the fact that, as stated here, it is a vicious innovation upon the administration of the criminal law. Every crime is made up of an act and an intent. Of necessity the ultimate criminal intent of an act of taking the moneys of other people contemplates either the willful design to deprive the other person of his property or to gain a benefit

to the person so receiving it. Now, here is an absolute declaration of the criminal law which in the absence of this constitutional provision would not exist. The simple fact that a man knows that he is insolvent, does not necessarily make him a criminal in continuing to do business after he has knowledge of that fact. Men, innocently and with a commendable purpose, do that. Insolvency has a very wide and extended meaning. A man may be insolvent in the general sense, if an account of stock were taken, if he were to cast up his accounts on either side, and it should be ascertained that at that time he would not be able to meet his obligations if called upon to do so; but it does not follow if he can tide over the period of a few days or a week or a few weeks, or a few months, that he would be insolvent in another sense. Now, this proposes to enact here arbitrarily that the very fact of a banking association being insolvent, and known to be so by the director, or cashier, or agent, when money is received, of itself makes the party receiving it a felon. I think that that sort of legislation ought to be general, ought to be left as other crimes are left, to the determination of the law upon the particular facts of the individual case.

You can imagine a case where a man would be guilty of a felony—that is, of embezzling money, or obtaining money by false pretenses, under the general language of this section, and yet you may imagine many cases when he would not be, when his honest and commendable purpose was to maintain the institution, knowing, as he might know, that the business faith and credit of many business houses depended upon the fact that the bank should be maintained; knowing that if it went down in a day or an hour, widespread disaster and business ruin might follow in the community. I do not believe, gentlemen, that we want

to do that. There is nothing here contained that the Legislature cannot control by general law, and you can safely leave it to the sense of fair dealing of the community, as evidenced through the shrewdness and desire of men to maintain their business faith and credit before the community, to protect the people, under conditions assumed to exist here. I hope that this will not prevail.

Mr. RICHARDS. Mr. Chairman, I desire to say a word or two in support of the view taken by my colleague from Salt Lake. I am opposed, in the first place, to this, because I do not believe that we ought to enact a penal code in the Constitution. On general principles, I would be opposed to it for that reason. I am heartily in accord with the idea that any officer of a bank, who would knowingly and intentionally receive money after the bank was in an insolvent condition, and when he knew that the depositors would not be able to get their money back, I think that a man under those circumstances ought to be punished and that it should be deemed a felony. But I think the Legislature should provide for that. The objection made by the gentleman from Salt Lake as to the wording of this section is fundamental. It seems to me that even if we passed this, the courts could not hold and would not hold it to mean what they say here. For example, suppose a run is commenced on a bank. The banking institution is perfectly sound; it has two dollars in property, we will say, for every dollar that it owes, but it has only got in the bank this morning, fifty per cent. of its deposits, which any banker will tell me is sufficient. It is conservative banking if he has fifty per cent. Now, a run is started on this bank, and it becomes apparent that the money he has in the bank is not going to be sufficient. A neighboring banking institution, in order to prevent the failure of this bank, which may carry

down its neighbor at the same time with it and perhaps all the other banks in the place, comes in and offers to put up some money. He says, "Here we will give fifty thousand dollars, or a hundred thousand dollars of our money to tide you through to-day." The man takes the money and puts it on his counter and pays it out, and before night he pays it all out and his doors are closed. That man would be a felon under this section. Did he intend any wrong by doing that? No. He intended to save his institution and to save other institutions, and yet he was unable to meet his liabilities. And is not an institution insolvent when it cannot meet its liabilities? That is one of the definitions of insolvency. Now, I say that it would extremely unfortunate for us to adopt such legislation as this.

Mr. PETERS. Do you claim that the banker would be guilty of felony if he received money from his neighboring bank, while that individual was fully acquainted with the fact that the bank was insolvent at the time the money was handed to it?

Mr. RICHARDS. I answer the gentleman by reading this section. (Reads.) Now, if that man make that as a deposit, he is, under this section, guilty.

Mr. PETERS. Mr. Chairman, I arise to make a motion; to strike out all after the word "received," in line 9.

The amendment was agreed to.

The question being taken on the motion to strike out the section, the committee divided, and by a vote of 45 ayes to 15 noes, the motion was agreed to.

Section 36 was read.

Mr. RICHARDS. I desire to ask the chairman of the committee what is the meaning of this language:

No law shall ever be passed granting to any citizen, class of citizens, or corporations, privileges or immunities, which, upon the same terms, shall not equally apply to all citizens? or corporations.

Mr. JAMES. I would prefer to refer

you to the author of the section, Judge Maloney.

Mr. MALONEY. That is, if one incorporation is incorporated, why not another on the same terms and privileges? In other words, that all of them stand alike. Any set of citizens can incorporate under this the same as any other. It was taken from the constitution of one of our eastern states.

Mr. CANNON. Mr. Chairman, I move to strike out section 36. I think it is covered by section 1.

The motion was agreed to.

Section 37 was read.

Mr. KIESEL. Mr. Chairman, I move to strike out section 37.

Mr. CANNON. Mr. Chairman, I trust that motion will not prevail. I believe that this section should, of all sections in this article, stand. I think it is one which provides for the rights that men should have, and it is just as important as the article on labor and arbitration was, concerning blacklisting.

Mr. JAMES. Mr. Chairman, I am very much pleased. It seems that the prodigal son has returned. [Laughter.] Probably we may get a section through. I hope that the Convention will retain this section.

Mr. CANNON. I wish to know whether the gentleman refers to himself or me? [Laughter.]

Mr. JAMES. We will debate that by and by. This section is to provide against the interference of employes and workers, and I believe it is a good section. I do not believe it can do any harm. I believe it will be a protection, and I should like to see that section adopted.

Mr. ROBERTS. I would like to ask Mr. Cannon what protection is conferred upon the individual by this section that is not already provided for in our bill of rights?

Mr. CANNON. If the gentleman will point out the section in the bill of rights that he thinks covers this ground

I will try to explain the difference that I think exists between them.

Mr. ROBERTS. Why, sir, the guaranty of freedom to every individual in the State by the bill of rights would cover this. It would cover all that this covers; the right to life, the right to liberty, the right to pursue happiness. The general rights secured by the bill of rights cover everything that this section covers.

Mr. CANNON. This is to prevent people interfering with those who have got employment, by saying they shall not work.

Mr. VARIAN. Mr. Chairman, I have some amendments to offer to this section, because if the motion to strike out shall not prevail, it might preclude an amendment. I want to move to strike out "citizen," in line 1, and insert "person," and also the words "citizen and resident," in line 5, and insert "person." As to these two amendments, I want to call attention that on the face of it this is a discrimination in favor of citizens, which would not be permitted under the Constitution of the United States. Of course the courts would not sustain it in that way. I move to strike out first, "citizen of," and insert "person in," and I move to strike out, in line 5, "citizen or resident," and insert "person." That will cure the objection that I have in my mind.

The amendment was agreed to.

Mr. VARIAN. Now, Mr. Chairman, I move to strike out the word "misdemeanor," in the last line, and insert "crime," before the period; and also, "the Legislature shall provide by law for the enforcement of this article."

Mr. JAMES. Mr. Chairman, I support the motion of Mr. Varian and I want to, in reply to a remark that was made a few moments ago, simply call the attention of the gentleman, Mr. Roberts, to the argument of Mr. Thatcher on this floor the other day, where he knew of his own personal knowledge, that men had been followed

from the State or Territory of Utah into Canada, and were driven back again, and were still floating around the country when there was work for them to be doing, but they could not get it, simply because there was a combination against them to prevent them from receiving employment.

Mr. THOMPSON. Mr. Chairman, I think this section is fully covered by section 7 of the article on labor.

Mr. MALONEY. This goes a good deal farther than the section to which the gentleman refers, and it is something by which the discharged employes of the great corporations may have some protection, that they cannot be followed through into Canada, and through the United States and into Mexico.

The amendment was agreed to.

The motion to strike out was rejected.

Section 38 was read.

Mr. THURMAN. Mr. Chairman, I move to amend, commencing in line 7—I think I see what it means, but the language is peculiar. And I think it ought to be corrected. I may be hypercritical.

Mr. SQUIRES. I presume that semicolon does not belong there.

Mr. MALONEY. If the word "section" is inserted instead of "article," wouldn't that cover it.

Mr. EVANS (Weber). That is undoubtedly what it means anyway.

The amendment was agreed to.

Mr. ANDERSON. Mr. Chairman, I move that we amend the section by striking out all after the word "policy," in line 7, down to and including "void," in line 12.

Mr. THURMAN. Mr. Chairman, I second the motion. It seems to me that the language is somewhat duplicated as it stands anyway. I call attention to the way it reads. That makes that absolutely void by the constitutional provision. Then we go on and say that the Legislature shall pass

laws for the enforcement of this section, etc., if necessary for that purpose, and may declare a forfeiture of their franchise. It seems to me if we want to declare them void we should do so, and quit. If we want to leave it to the Legislature, adopt the amendment proposed by the gentleman from Weber.

The amendment was agreed to.

Mr. ANDERSON. Mr. Chairman, I move that section 21 be stricken out. I think this is class legislation and is vicious in the extreme in principle, and it should not be incorporated in the Constitution.

Mr. CANNON. Mr. Chairman, I arise to a point of order. My point of order is that this identical motion was made and debated yesterday and was overruled by the committee.

The point of order was sustained.

Mr. CANNON. Mr. Chairman, I move that the word "insurance" be stricken out. We have struck out everything but the word.

Mr. JAMES. Mr. Chairman, I think we had better let this go to the third reading of the article. Maybe the Convention will get into better temper and deal a little more considerately with it.

Mr. VARIAN. Mr. Chairman, I just take advantage of this motion to call attention of the gentlemen to the principle embodied in section 37. We cannot disturb it now, but it seems that it ought to be considered between now and the third reading so that it would not apparently on its face reach all persons who may be honestly and in good faith and for a useful and beneficial purpose interfere and prevent the employment of others. I would like to have my friends think that over so that we may get it into proper shape on third reading. The intention is to prevent a criminal or wrongful interference with the rights of others. It is broad enough to include anybody, for a good and useful purpose, depriving his fellow citizens from getting employment. It ought to be, it seems to me, remodeled

in that particular, so that we will not write ourselves down as it will appear we will if we let this stand. Nothing can be done now, however, and the gentlemen who are in favor of the proposition can consider the suggestion.

The motion to strike out the word insurance was agreed to.

Mr. SQUIRES. Mr. Chairman, I move that the word "banks" be stricken out. I do not see the use of it in there. We have a title for the article—corporations other than municipal.

Mr. JAMES. I hope that will not prevail, Mr. Chairman. There are some sections retained there affecting banks. This Convention is not so wise but they might get a little wiser before the third reading, and there might be something that would want to be changed under that heading of banks.

The motion to strike out was agreed to.

Mr. CHIDESTER. Mr. Chairman, I move that when we do arise we report this article for third reading.

The motion was agreed to.

The Convention then took a recess until 2 o'clock.

AFTERNOON SESSION.

The committee re-assembled and proceeded to the consideration of the article on public lands.

Section 1 was read.

Mr. PETERS. Mr. Chairman, I move to amend section 1 by transposing in line 31, and classifying the agricultural lands to second in place of third. Now, in order to give my reasons, I will call your attention to section 2, which says that lands of the first of said classes may be sold under such regulations and rules as may be provided by law. Then, it goes on to say that the agricultural land may be either sold or leased under such rules and regulations as may be prescribed by law. By making this transposition we can just merely say that lands of the first and second class may be sold or leased under such rules

and regulations as may be prescribed by law, and lines eight, nine, and ten, can be stricken out. It is just simply to shorten up this thing.

The amendment was agreed to.

Mr. MALONEY. Mr. Chairman, I move that after the word value we insert the words—I will write it out and send it up.

The CHAIRMAN. What representatives of the committee on public lands are present in the committee of the whole?

Mr. ROBERTS. I am a member of that committee, Mr. Chairman, and I will say that my recollection is that when this article was up before in committee and then referred back to the joint committee of education and school lands and public lands, with which, by the way, I did not have an opportunity of meeting, the part that Mr. Maloney is now offering an amendment to was evidently lost sight of.

Mr. Maloney's amendment was read as follows:

In line 14, after the word "value," insert the words "as of the date of settlement thereon."

Mr. CREER. Mr. Chairman, that question was discussed in the committee and it was concluded that it would be the proper thing for the commissioners to take that matter into consideration—the valuation of the land. Furthermore, it will be observed by reading along down to the 16th line that the valuation may be adjusted as provided by law. I think that it is all right as it is.

Mr. MALONEY. Mr. Chairman, at the time of settlement, the lands were not surveyed and they did not know they were on the school lands; they could not get title; they are willing to pay the value of the lands and interest on the money, as of that date. It will work a great hardship upon them—they have built their homes upon those sections.

Mr. ROBERTS. I would ask Mr

Maloney if the provisions in line 16 would not obviate the difficulty that he sees in line 14; that is, it is stated in line 14 that the disposition, etc., "to be ascertained in such manner as may be provided by law." It seems to me that the matter is relegated by this section to the Legislature to fix the market value of those lands.

Mr. MALONEY. I would construe that to mean as of the date of the disposition. I hardly think the Legislature would construe it in the way the gentleman suggests, and in order to make it certain I think we ought to have the amendment, as of the date of the settlement thereon.

Mr. ANDERSON. I would like to ask the gentleman a question, where settlers settle on land, before it is surveyed, isn't there a United States law that other lands should be selected as school lands?

Mr. MALONEY. I don't know how that is, but the section I speak of is in Weber County, and the settlers there are anxious to have something done so that they may secure their homes.

Mr. EVANS (Utah). Mr. Chairman, I was a member of the committee on education and school lands, and we provided an article upon school lands that fully covers that question. Why it has not been reported here I do not know. It does not appear upon the calendar, neither have I heard the report made here, but that fully covers that question. It provides for the objection that Mr. Maloney raises, and there were no other lands, excepting school lands, that are in that situation, so far as I know. It is confined exclusively to school lands; for all other lands the people have located upon they have their titles. Now, any one can tell me, if there is another member of the committee here that knows anything about that report, I would like to know.

Mr. MALONEY. I have never seen the article.

Mr. BOWDLE. Mr. Chairman, I was a member of that committee on school lands, and Mr. Evans is correct upon that. We agreed upon that kind of an article. Why the chairman has not reported it I don't know. It covers this very question which is here raised by this section.

Mr. JOLLEY. I trust, gentlemen of the committee, that the amendment of the gentleman from Weber will prevail. It will be a great benefit to many people, and very poor people some of them, too, of our Territory. Now, we have in one of our little settlements in Sanpete County a whole section of school lands that runs up into the edge of the town—

Mr. SNOW. I would like to say to the gentleman—I think we are talking through our hat on this question. It does not refer to school lands at all. The chairman of the school lands committee will report an article that will cover this entirely.

Mr. JOLLEY. Perhaps I am laboring under a mistake. I understood this included school land.

Mr. CREER. No, sir; it does not include it at all.

Mr. MALONEY. Mr. Chairman, if that ground is covered by another report which we have not had, I do not wish to bother the committee now.

Mr. EVANS (Utah). By permission, I would read this for the benefit of the committee. (Reads.)

Mr. CHIDESTER. Do we understand that that is what will be reported by the committee for our consideration?

Mr. EVANS (Utah). Yes, sir.

Mr. SQUIRES. Let us dispose of this section first.

Mr. EVANS (Utah). Yes; I have no objection to that.

Mr. HART. Mr. Chairman, I have an amendment to offer. In the first line of the section, I move to insert after the word "State," the words "except school lands."

Mr. CREER. Mr. Chairman, it seems

to me that we might get in confusion by adopting this, because there are distinct grants made for schools and then for the university, and then it will be observed that the committee on public lands had nothing at all to do with the consideration of those educational purposes, and I think the amendment suggested by the gentleman would not cover the ground, because they are specific, both for colleges, university, and schools, and different kinds of institutions, of lands, and I think the gentleman ought to defer his amendment until we see whether it will be proper or not. I don't think it is proper to introduce it in here.

Mr. CANNON. I think it would be inappropriate to insert the words moved by the gentleman from Cache at the point he has stated. Now, if you insert the school lands and do not receive those, it would not be a proper exception.

Mr. HART. Mr. Chairman, I am quite certain as to the point, and I would be willing to let this go to the third reading.

The CHAIRMAN. The amendment is withdrawn.

Mr. MALONEY. Mr. Chairman, I move to strike out the word "receive," and insert in lieu thereof the word "accepted," in lines 5 and 6.

The amendment was agreed to.

Section 2 was read.

Mr. PETERS. Mr. Chairman, I move to insert after the word "first," in line 1 of section 2, the words "and second," and then strike out the 8th, 9th, and 10th lines. I would simply say that when I made my motion to transpose part of section 1, I stated my reasons for it at that time, that I intended to move to strike out these lines.

Mr. RICKS. Mr. Chairman, I do not think we ought to be in a hurry about that amendment. In the first place, it covers coal lands.

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I move

that the word "second," in line 4, be stricken out and the word "third" inserted.

The amendment was agreed to.

Mr. THATCHER. Mr. Chairman, I move to strike out the words, "may be sold," on the fourth line.

The amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, now, I move you that section 2 be stricken out down to and including "by law," in line 10. It seems to me that it is purely legislative and ought to have no place in this Constitution. It all goes on and provides that it shall be prescribed by law, and the Legislature will have to deal with this question. They will have to take it up and define its boundaries, and how it is to be disposed of, and so on, and inasmuch as they have got to deal with it at all, I am in favor of leaving the whole question to them. I am in favor of the last two lines for the reason that it is a specific classification and defines what they cannot do or what they must do.

Mr. THURMAN. Mr. Chairman, I support the amendment of the gentleman from Utah. The only limitation in that whole section, in lines 11 and 12—that I think is a good limitation and the Legislature ought to be forbidden from disposing of those lands, except as herein specified.

The CHAIRMAN. Don't you think that perhaps that was put in there to cover the question of leasing by the State?

Mr. THURMAN. Even if it was, Mr. Chairman, and if this Convention thinks that that is necessary, the section is very cumbersome. Of course, if this Convention wants to limit the power of the Legislature to sell certain lands or to lease certain lands, that is a necessary limitation, but the section is certainly very cumbersome the way it is, and I favor the motion to strike out.

Mr. CREER. Mr. Chairman, I am in favor of that, providing that there should be something substituted. It

seems to me there ought to be something placed in this article with reference to the disposal of the lands. I am in favor of striking out and substituting the provision in the Wyoming constitution. I have prepared it as a substitute. I supposed there would be some exceptions taken to this second section.

Mr. HART. I would like to hear from the chairman of this committee his reasons for inserting this clause. As he is not present, I would then vote to retain this and let it come up on third reading. There may be some reason for retaining it and it can be acted upon on third reading.

Mr. HILL. Mr. Chairman, the chairman of this committee is not here. I am a member of it. I accept of the proposition of Mr. Hart, notwithstanding which, I consider the provisions which are here made are even better than those suggested by Mr. Creer, who is also a member of that committee. With the amendments as proposed, I think it covers the entire ground. Did I understand, you, Mr. Thurman, to say that you desired to eliminate the eleventh and twelfth lines?

Mr. THURMAN. No, I desire to retain those two lines, and strike the balance out.

Mr. HILL. I am willing to submit to that, as a member of the committee.

The CHAIRMAN. The question is upon the motion to strike out all of the section down to line 11.

The question being taken on the motion, the committee divided, and by a vote of 26 ayes to 28 noes, the motion was rejected.

Section 3 was read.

Mr. EICHNOR. Mr. Chairman, I move to strike that section out; that is a legislative enactment.

Mr. EVANS (Utah). Mr. Chairman, I move to amend by striking out section 3 and inserting the following:

The lands selected to satisfy the

grants which have been heretofore or may hereafter be made to the State, shall be allotted to each of the several uses for which the same were granted, so that each may receive its fair proportion thereof, both as to quality and value.

Mr. EICHNOR. I will withdraw my motion to strike out. I would like to ask the gentleman if that is a section prepared by the committee on school lands?

Mr. EVANS (Utah). Yes, sir.

Mr. CANNON. And was agreed upon by that committee?

Mr. EVANS (Utah). Yes, sir.

Mr. CANNON. But no report has been made on it?

Mr. EVANS (Utah). There has been no report made at all. I do not know where the chairman is.

Mr. BOWDLE. In looking up the minutes, I find the report was made, but I do not understand why the article was not printed.

The substitute offered by Mr. Evans of Utah was adopted.

Mr. MALONEY. Mr. Chairman, I move to add after the last word in the section offered by the gentleman from Utah County, the words, "as of the date of the settlement thereon."

Mr. EVANS (Utah). Don't you want to add that in the next section?

Mr. MALONEY. Yes, sir. I will withdraw it for the present.

Mr. EVANS (Utah). Mr. Chairman, if there are no amendments to that, I desire to offer a new section entirely:

The selling price of the public school lands shall not be increased by reason of any improvements made thereon by actual settlers, but such settlers or their grantees shall be given priority in the purchase of such lands.

Mr. MALONEY. Now, I move that the words, "as of the date of settlement thereon," be inserted at the end of that section.

Mr. EVANS (Utah). I desire to say this, that means, as I understand it, that the commissioners will fix a price

upon that land, and they are confined only to the specifications as set forth in that, and then those who first settled upon it, or those who have purchased from them, who are the actual settlers, will have the opportunity of rejecting under these stipulations, and then of course they can be sold to any one else—those that may be rejected.

The section offered by Mr. Evans, of Utah, was adopted.

Mr. MALONEY. Now, Mr. Chairman, I wish to add the words, "as of the date of settlement thereon." There are a great many settlers of this kind in Weber County. They have tried in every way they could to get titles and they could not get them. A great many of those people are in very poor circumstances. Some of them are Swedes, some Danes. They are now ready to pay whatever is the reasonable price of their lands, but to allow the commissioners to value those lands at this time, why, it would be simply to drive them away from their homes, because they cannot pay for them.

Mr. SQUIRES. Do you not understand that under this section the improvements on that—

Mr. MALONEY. I understand that, but those lands will now be valued at something like two or three hundred dollars an acre, maybe. Those people cannot pay it. There is no use talking about it.

Mr. FARR. Mr. Chairman, what Mr. Maloney has stated is strictly correct. I have seen a number of such instances.

Mr. JOLLEY. I hope, gentlemen of the committee, that this amendment of Mr. Maloney will prevail. As I stated when I was up before, in one of our little towns in Sanpete County, we have there a section of school land that comes up into the town, that the people had settled on and had cultivated, had built upon, before it was ever known where the school land lay. To-day the men that owned that land, many of them, are dead and gone, and their

widows have that land and it is all that they have got. Now, if the price is put upon that land as it is worth to-day, it being right in the edge of the town, it will be more than they are able to pay. It will drive them from their homes, and I think it is just and right that that land should be appraised as it was when they first settled upon it, and I trust in the interest of those that will be robbed of their homes, you will consider it and vote for the amendment.

Mr. CREER. Mr. Chairman, I think this is a very important question and should be fairly considered before we pass upon it. It may be true and is true that quite a number of settlers settled upon land, when they did not know that they were school lands at the time; but it is also true that a great many of the citizens of this Territory settled upon school lands that they knew at the time were school lands and they have probably for the last ten or fifteen years had the benefit of those lands without paying any taxes upon them, simply by paying taxes upon the improvements, and thereby the balance of the people have been handicapped by them going and settling upon those school lands. I know there are a number of townships around—in Utah County there is one at least, and in fact part of another one that I am aware of, that they knew perfectly well they were school lands at the time they were settled upon, and, therefore, they have received the benefits all those years of being exempted from taxation, and now to say that they should simply pay the price they were valued at at the time of settlement, I think would be wrong, and furthermore, I think that by this action of the committee, it would deprive the school funds of many thousands of dollars should we dispose of this section in this manner. I do not believe it is the correct principle. I do not think it is right. I think that the interests of the school population of the Territory should be considered as well as those of

the settler. It must occur to everyone that the lands of this Territory settled upon have been surveyed for many years. I have no way of computing it. I do not know whether the gentlemen on this floor have any way of computing that, but I believe there are far more of the school lands settled upon that the settlers knew at the time they were school sections. This would also affect four sections of the township as I understand it, and I think it is a very important matter, and I am opposed to the amendment of the gentleman from Weber, Mr. Maloney.

Mr. ALLEN. Mr. Chairman, it appears to me that we ought not to vote on this in a hurry. The amendment as proposed will work a great injury to our school fund. These men, although they have been living on this land and improving it, while, as has been stated here, it would work an injury to them in one respect, yet, they have not had to pay taxes on this. They have been getting the benefit of it for years and years, and have never paid a dollar's price, and to place the price of this back as it was twenty and thirty years ago, I do not think it would be right. Further than that, I know of some men who are holding considerable school land to-day, just on purpose to get a chance to buy it when it comes into market, and get it cheap. I know of some holding lands in this way, and it will work an injury to the school fund and put considerable money in the pockets of some men who are now wealthy. Therefore, I think this should be left to the Legislature.

Mr. ANDERSON. Mr. Chairman, I think that the settler is sufficiently protected by the section as it now stands. They are given priority of right and the improvements that they have made are not considered. According to United States law, if a settler settled on land before it was surveyed, that land was not set apart as school land.

Mr. IVINS. Will the gentleman allow

me to say just a word? I know of many instances where people settled upon land before it was surveyed, and occupied it for fifteen years before the government survey ever was made, and when the survey was made of alternate sections, and they were set apart as school sections, and it is school land to-day, and those people have been occupying it for twenty-five or thirty years, ten or twelve years of which was before it was ever surveyed by the government at all.

Mr. ANDERSON. That may be, but there is a United States law, as I say, providing that if settlers settle on land before it was surveyed, that other lands will have to be selected in lieu thereof. But I think that in order to protect the school fund, we should adopt this section as it now stands. The settler is protected. He is given a priority of right; he has the first chance to bid, and the improvements that he has made upon it are not taken into consideration.

Mr. MALONEY. You say that they are given the right to purchase. Suppose the land is valued at three or four hundred dollars an acre and he is an actual settler—

Mr. ANDERSON. Well, if it is worth that much I suppose he could get the money from almost any bank to pay for it.

Mr. MALONEY. Well, they would have to mortgage their homes. Some of them have no more than half an acre.

Mr. CREER. Is it not a fact that if a party should go and settle upon school lands before the government survey, he has the same privilege as any other settler of entering those lands—sections 16 and 36.

Mr. MALONEY. Suppose he tried to get a title and failed—he could not do it.

Mr. CREER. I understand the law to be that the original locator can do so.

Mr. THURMAN. Mr. Chairman, I

favor the spirit of this amendment, but it is not exactly what I think it ought to be. I think a man who in good faith settled upon school lands before they were surveyed ought to have the privilege of buying those lands at the government price with reasonable interest added, because he would have gladly paid his money and bought the lands, but could not do it. But he has had the use of it. Let him pay a reasonable rate of interest—six to eight per cent. Those who settled on school lands, knowing they were school lands, took their chance on whatever regulations the State might make. Let them be governed by the provision as it stands here without the proposed amendment. Now, gentlemen, I think that ought to be the form of the amendment, and it could be made with a little time, and that kind of an amendment I would like to support; but I can see that this provision as it stands without the amendment will work a great hardship upon men, who in good faith went upon the public domain and established their homes. They may have lands which to-day, without any improvements on them at all, are worth forty or fifty dollars an acre, and to compel them to pay that is practically to compel them to abandon their homes; I do not believe it is right.

Mr. SQUIRES. Mr. Chairman, I was about to vote for this amendment, for fear, if we did not do it, the early settler might have some hardship, and if there was the least doubt about it, I wanted to give him the benefit of the doubt; but after what Mr. Thurman has said, I believe that some other form of amendment should go in there. But why take up our time now over that matter? Why not pass this section as it is, and give us time between this and the final reading to prepare such amendment as we need?

Mr. FARR. Mr. Chairman, the gentlemen have spoken about men having the land and that they have paid no

taxes at all. Now, in our section of the country where we have got the land, they paid the same tax there on these school sections as others have. Consequently they have been to the same expense on the land, and I trust this motion of Mr. Maloney's will pass. Any person who has gone and taken up school lands, knowing they were school lands, ought to pay the full value, but those who settled and put up their homes before they knew what those lands were, whereas others put them up on government lands, and they have got their lands, and these poor people on the school lands have been trying to pay for it all this time—I am willing to have it that they pay a reasonable interest, because they have had the use of the money, but no more. I do not think we should tax them any more than a reasonable interest. I think we might just as well postpone this until the amendment can be properly drawn.

Mr. BOWDLE. Mr. Chairman, I am not, myself, this afternoon, prepared to vote upon this question, and I know this same thing will come up on third reading and I consider that what we do now will simply be time lost unless we so largely be of one mind that it would practically settle it, both here and in the Convention, and I am in favor of passing this section. I do not care what you put in this afternoon, because I know the same thing will come up again.

Mr. MALONEY. Mr. Chairman, I will withdraw it with the consent of my second and bring it up on third reading. The settlers are undoubtedly willing to pay some interest, whatever is reasonable.

Section 4 was read.

Mr. KIESEL. Mr. Chairman, I have an additional section to offer:

In the investment of proceeds derived from the sale of public lands, preference shall be given to the securities of the State of Utah.

I apprehend, Mr. Chairman and gen-

tllemen, that when lands are disposed of, when the time comes, there will be money in the treasury, there will be a great rush made for that money. and there is a chance that the money may be loaned out and given to parties where the interest is very hard to collect. I do not think that a better investment can be made than that of the securities of the State, because it will at once enhance those securities, and in a short time after the sale of the lands and we have the money, we will be the owners of our own debt—the State of Utah. I think you must not lose sight of this, and I think the Legislature should be compelled to make that a law. I had my attention called to this by the governor of Idaho. They have loaned out the money to Tom, Dick, and Harry—to farmers, and they are having the greatest difficulty to collect the interest on the investments, and in a talk that I had with Governor McConnell, he strongly recommended to embody that in the Constitution as the result of their observation.

The section proposed by Mr. Kiesel was adopted.

Mr. CANNON. Mr. Chairman, I move that when the committee arise, we report this article to the Convention, with the recommendation that it be placed upon the calendar for third reading.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled salaries of public officers.

Section 1 was read.

Mr. ALLEN. Mr. Chairman, I move to to amend section 1 by inserting the word "assessors" between the words "excepting" and "notaries," in line 2. I cannot call to mind where the assessor would receive any fees. Of course the collector would, and if the assessor is paid a salary, it is not one man out of a dozen that would get anywhere near a fair assessment on property. Now, there are two things to be

considered in making an assessment. If he is paid a per cent he would get it just as high as he can and keep the taxpayers good natured, and he has got something to induce him to get that as high as possible, and it is not one time out of a dozen that I know of in the Territory that they get it too high, either, and they do not get it too high as a rule, because they want the good will of the people for re-election. Therefore, I believe a man who is working on a salary, would not be particular. He knows he will get his pay anyhow. He would not be particular about getting that property assessed as high as he would if he was receiving a per cent.

Mr. MALONEY. Mr. Chairman, for the very reason the gentleman gives, I oppose the amendment. I will say to the gentleman that there are five hundred to a thousand people in Ogden and Weber County that will be glad to sell their lands for a less sum than the assessors place them at.

The amendment was rejected.

Mr. CANNON. I desire to ask some of the legal gentlemen present whether or not it would not be better to have that included among the list of officers which are to be paid by fee, the sheriff? Is not his office of such a nature that you have to pay him, and cannot definitely arrange to pay him a salary? You do not know how many criminals he is going to have to look after, and he does not know what processes he will have to serve. I would like to ask some of our legal brethren that.

Mr. EVANS (Utah). Mr. Chairman, I will say that our experience has been in the county which I have the honor to represent, that it was better to pay a salary than it was under the fee system, and we inaugurated that plan, while we were almost overstepping the bounds of the law in order to do it. Now, in all these offices it provides for expenses, and his time would be covered by salary, and the necessary trav-

eling expense, and whatever he would have to actually pay out.

Mr. THURMAN. Mr. Chairman, after the word "State," I move to insert the word "district," in line 1. There might be district officers. We already have provided for judges to be elected by the district, and they may be called district officers, although they are paid by the State.

The amendment was agreed to.

Section 2 was read.

Mr. CANNON. Mr. Chairman, in accordance with the amendment, made by the gentleman from Utah, I move to insert in line 7, after the word "State," the word "district."

The amendment was agreed to.

Mr. EICHNOR. Mr. Chairman, I move to amend section 2, by striking out all after word "treasury," in line 10. The words stricken out—that is the exact purpose for which he gives the bond.

Mr. VARIAN. Mr. Chairman, I fear that for the reason that it puts upon the officer who is to receive the money a penalty, because of the failure of the man who is to pay it. I do not think that is the proper thing. That ought to be left to the laws. I am an officer, compelled to do these things, and pay the fees I collect over to the State officer. If I do not do it, for that officer to be held responsible on his bond for it, it seems to me is hardly the thing. Now, by striking that out, you refer it all to the Legislature.

Mr. ROBERTS. Mr. Chairman, it occurs to me that the thing of which the gentleman complains is the very thing we want. If we are going to have any virtue in this fee system at all, in the change that is proposed, of paying fees into the treasury, you have got to provide for their collection, and you must provide for that collection through the officers that collect, and I believe that these officers ought to be bound to collect those fees and be held responsible for them to the extent as

provided for in this section, and for that reason I shall vote to retain it just as it is. It seems to me that if we do not make some arrangement such as this for the collection of those fees, we are going to fail in every part, getting the fees at all. Make the man responsible who collects them.

Mr. VARIAN. I think probably that interpretation is right, so far as I am concerned.

The amendment was rejected.

Mr. MALONEY. May I ask what officers "district" has reference to, which was inserted there?

Mr. THURMAN. I did not have any particular officer in mind. We may have district officers. I said we had provided for judges to be elected in their districts. There might arise a question as to whether they are district officers or State officers. They are paid by the State, but they are elected by the district. I think they are district officers.

Mr. MALONEY. Ought we not to say judicial, then?

Mr. THURMAN. Not necessarily; district will cover it all, whether it is judicial district, or land commissioner district, or whatever is the district created by the Legislature in the future.

Mr. MALONEY. It seems to me it is left open for conclusion. I would like to have it more definite.

Mr. VARIAN. Mr. Chairman, I move to strike out the words, "justices of the peace," in line 5, and insert "and justices of the peace, except in cities, as may be otherwise provided by law," to make it conform to the proviso of the first section.

Mr. FARR. Mr. Chairman, I arise to ask a question for information. In the third line of the first section, what is meant by court commissioners? We have a county court that we call county commissioners—three selectmen, and what court commissioners has this reference to?

The CHAIRMAN. Mr. Varian, may I

call your attention to the fact that the justices of the peace, in lines 4 and 5, is limited by the fact that they are such justices as are paid by fees?

Mr. VARIAN. Yes. I will send it up in a minute. This matter can be arranged by simply transposing, "and constables," before the word paid.

The amendment was agreed to.

Mr. THATCHER. Mr. Chairman, I move that the word "other," on the seventh line, be stricken out. My idea is that all the fees should be paid into the treasury and then their salaries under fees be paid back to them again. That will give the State an opportunity of knowing what their receipts and disbursements are and what surplus there may be. If you leave it without striking that out, the fees may amount to a large sum, and the State has no means of ascertaining that fact.

Mr. CHIDESTER. Mr. Chairman, as I understand it, if we should strike that word out, then the officers that we provided will be paid a salary would have to pay the fees into the treasury and then receive back a salary?

Mr. THATCHER. That is right.

Mr. PETERS. Mr. Chairman, I hardly understand that amendment. I think the word other here refers to the officers who receive their compensation in fees; for instance, boards of arbitration and court commissioners.

Mr. CHIDESTER. Mr. Chairman, I cannot see any good reason for compelling the notary public to go and take every fifty cents that he receives for acknowledging a paper to the treasury, and taking a receipt for it, and then at the end of the year going and asking the treasurer for that money back again and giving a receipt, which he would have to do. It seems to me that it would create a great deal of trouble and annoyance by compelling them to do that.

Mr. MALONEY. Mr. Chairman, I agree with what Mr. Chidester said. It strikes me that the Legislature might

take care of that. There are scores of notaries public that do not make two dollars and a half in five months. It strikes me it ought to be left to the Legislature to regulate such matters.

Mr. THATCHER. What business man would expect success upon the proposition that he kept account of a part of his business and not the other part. It is true the fees may be small, but the State should understand what they are. In instances in the past I have known fees to be very large. If the State has no means of ascertaining, why, then, they are not posted on that proposition. I hold that every well conducted business, and the State government itself, should carefully keep an account of every cent of receipts and disbursements. For that reason I make that motion. It is no trouble to pay in, and the salary being fixed by the fees, it is no trouble to pay out.

Mr. CHIDESTER. Would this not necessarily compel a notary public to demand cash for everything that he did?

Mr. THATCHER. Not necessarily.

Mr. CHIDESTER. It is for the benefit of the poor man that this should not pass, because they can make arrangements to have their deeds acknowledged without paying the cash, but if this passes then the cash must be paid so that it can go into the treasury.

Mr. BOYER. Mr. Chairman, as I understand the word "other" being qualified to the officers that are to be paid by salaries, I would move as an amendment to the amendment, instead of striking out the word "other," that you put there the word "salary," and that will apply strictly to the salaried officers that shall make this return and account as required by the gentleman from Cache.

The amendment of Mr. Boyer was agreed to.

Mr. THATCHER. Mr. Chairman, as I understand it, it reads now exactly the way it was before. The proposition I made was that every officer in

the State should account for every cent of public funds he handled.

Mr. RICKS. Mr. Chairman, I move, when the committee arise, it report this article to the Convention, and recommend it be put on its third reading.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled public buildings and state institutions.

Sections 1, 2, and 3 were read.

Mr. ANDERSON. Mr. Chairman, I move that section 3 be stricken out to the words "Salt Lake City," in line 16, and that these words be inserted before Salt Lake City, "the seat of government shall be located at Salt Lake City, Utah."

Mr. VARIAN. Mr. Chairman, I offer as a substitute for section 3, the following: "The capital shall be located at Salt Lake City."

Mr. CREER. Mr. Chairman, I am opposed to either the amendment or substitute. I think, gentlemen of the committee, that it is proper and right that this question should be submitted to the people—to the voters of the Territory. Notwithstanding it may be the opinion of the majority of the members of this committee that that would be the final result of this section, if it should be carried, that the seat of government would be located at Salt Lake City. You are aware that in quite a large number of the states of the Union, probably more than one-half, the capitol is not located in the metropolis. Now, we know that Salt Lake City already has one or more—it has a university, and I believe that this article further on provides that the State penitentiary or prison should be located in Salt Lake City, and also the State fair. It seems to me, gentlemen of the committee, that this is a question that is worthy of your consideration, whether it be just and right to have the capital located here at the metropolis; and there is another consideration, which perhaps may be of greater importance than; all.

If we should at this time locate—and that is, that following up the history of our past Legislatures, just as soon as the question is decided and settled, why they at once begin to make appropriations for the necessary buildings to follow the location.

Now, I think, Mr. Chairman, it will appear to everyone that the new State will not be in a condition to at once proceed and make appropriations for a capitol building, and I am thoroughly satisfied in my own mind from the experience of the past that if this should be done, that that will no doubt be the action of the next Legislature, to involve the new State in debt, and I think—in fact I am satisfied in my own mind that it is far better that we should take a respite upon the matter of borrowing money, and this will of necessity compel that respite. That is, a pause, or a time to consider well what the new State would require in this respect. Furthermore, there are ample opportunities, and will be, to facilitate every requirement that the State will need until that time. Many have expressed themselves to me that they would prefer to have this postponed until some ten years, and others five years, after the initiation of the new State, but it certainly appears to me, and I believe it would be nothing but just and right, that there should be some limit, some time that we should settle this matter of the State capital. In California and also in Nevada, and in many of the older states and also recent states, they have not established their seat of government at the metropolis. Therefore, I think it would be nothing but proper and right that other cities should have an opportunity of entering into competition for the seat of government. I am satisfied that it will give a greater prestige to our new Constitution. Many no doubt would be more willing to vote for the adoption of a Constitution of this kind with a proviso, than they would if it

established it at once in Salt Lake City, and I think it is nothing but fair, it is nothing but right, that the people should have an opportunity of voting upon this matter. Provide that a vote may be had hereafter for a change. If that is so, it seems to me it ought to be left to the vote of the people. This is the most important location of any institution that has been presented for our consideration.

Mr. ANDERSON. Mr. Chairman, I will withdraw my amendment, as the substitute of Mr. Varian is the same thing. I think the capital should be located at Salt Lake. It will save a great deal of expense. I think it is the proper place and it will save a great deal of agitation and intense feeling that will come hereafter.

Mr. HEYBOURNE. Mr. Chairman, I shall certainly support the gentleman's amendment from Salt Lake. I am opposed in my feelings to agitating the minds of the legal voters of this Territory in respect to the location of the seat of government. I believe that, of right, it belongs to this city. This is centrally located, so far as the new State is concerned, and I am of the opinion that it is nothing but right and proper that this body should determine this matter at the present and thereby settle this controversy. Therefore, I shall sustain the gentleman's amendment from Salt Lake.

Mr. THURMAN. Mr. Chairman, I am not prepared to say that I will oppose this amendment, but I am going to ask this Convention to do something in reference to this matter, which probably they will not be willing to do, but which I think they ought to do. We have work enough to keep us this afternoon, if we do not enter into a discussion of this question.

There will be a discussion of it if it is settled this afternoon. Now, I suggest that we postpone the consideration of this section until Monday and get through with our work about which

there will not be much difference of opinion, perhaps. We will probably have to be waiting here for the committee on revision to present us with some work, and while we are waiting we can settle this question. I think myself it ought to be determined by this Convention, but I ask the Convention to do that. I am not prepared to say just now that I will oppose this amendment.

Mr. ANDERSON. Could not this be considered when it came up on the third reading?

Mr. THURMAN. Well, of course that puts parties who might want to oppose it at a disadvantage. Of course it could be considered on third reading, but when we get through with a matter in committee of the whole, we generally think that a matter is about settled.

Mr. EVANS (Weber). Mr. Chairman, I have an amendment, if it is in order, which, although it may be somewhat imperfect, I would like to submit:

The location of the seat of government shall be at Salt Lake City; provided, that there shall not be an appropriation of any money for the construction of a capitol building for a period of ten years; and, provided further, that the city and county of Salt Lake shall furnish convenient rooms and accommodations for State officers and State purposes during such period.

Mr. Chairman, I believe like some other gentlemen who have been talking, that we ought to settle the question of the seat of government in this Convention, and I think it ought to be settled in Salt Lake City once for all, but I do believe, in view of the present condition of the treasury, that there ought not to be any money appropriated or expended for the construction of the capitol building for a period of about ten years. Whether that length of time is the proper time or not, I will not assume just now to say, but it does seem to me, and I believe, too, that the city and county would agree to it, as they

have a most magnificent building here in which we meet, to permit rooms, and accommodations for State officers and for State purposes for the period of ten years. Then, in the meantime, the State may be in that condition financially that it may be able to construct a handsome building, but I would fix it definitely in the Constitution that the capital is to remain at Salt Lake City and stop this continual agitation which we have had ever since the capital was fixed here. I believe the proposition to be eminently fair and just. I believe it will not injure the people of Salt Lake, and I know that it will benefit the general taxpaying element of the new State. This matter I have had in mind some little time, but just drew the amendment upon the impulse, as I came in late. I only submit it now that it may be properly considered and taken up upon its third reading and definitely settled.

Mr. FARR. Ten years is a pretty long time. I would ask you to accept of an amendment and instead of ten make it five years, in this motion.

Mr. EVANS (Weber). No.

Mr. CREER. That can be amended upon third reading.

Mr. SQUIRES. I would like to call the attention of the gentleman from Weber to one portion of that substitute. It would be absolutely impossible for us to forecast what all the future councils of this city might be willing to do in the way of furnishing room for the accommodation of the legislative bodies when they are called upon to meet here. I don't believe that the delegates upon this floor representing Salt Lake City are in any position to make any guaranty. I am quite sure they are not, and if on any one occasion there should be a failure on the part of a city council or a county court to furnish these rooms for the Legislature, why, then, the capital is not located, although it is put in the Constitution. It seems to me an unusual constitutional provision.

Mr. EVANS (Weber). I was just going to remind you that it does not require any guaranty from the city or the county but it fixes it here definitely, if they do those things, that is all. It seems to me like a reasonable proposition.

Mr. JAMES. I want to call the Convention's attention to the fact that the city council has already donated a site for the capitol, and that they have gone to a good deal of expense in the way of improving it, putting out trees, reservoirs, etc., and there may have to be some provision for taking care of that site, and providing for keeping it in order, even though there may be no building.

Mr. IVINS. Mr. President, I do not like the substitute offered by the gentleman from Weber, for more reasons than one. There is nothing definite in it. He locates the capital here, provided Salt Lake City and county will do certain things. Like the titles to this land we have in different parts of this Territory, it is all conditioned.' I am in favor of definitely settling this question now and here. Neither do I like that provision of the substitute which says there shall be no money appropriated for ten years. I am willing to leave that to the Legislature. I do not think they will appropriate any money unless it is proper.

Mr. VARIAN. Mr. President, in my judgment, this Convention wants to appoint definitely the place of business for the State. That is what the capital is. It does not necessarily follow that it is to be forever located there. It can and will be, if the necessities of the people require it, changed. As your Constitution now stands, amendments may be submitted by the Legislature and determined, as I recollect it, by a majority vote of the people. You do not want to go forth to the United States with an ambulatory proposition, concerning your seat of government. It ought to be definite

and fixed, because by fixing it definitely, you indicate that you are a people who know your own mind. Think of the uncertainty and indefiniteness included within the proposition to locate the capital, provided some municipality of the State shall do something, and make it also contingent upon the fact that no money shall be appropriated to provide for your necessities. Can you not safely leave that to the Legislature? Do you believe that a Legislature can be elected here which will not conform to the wishes of the people in that particular? You have placed proper restrictions and limitations upon the power of the State in the matter of incurring indebtedness, more particularly and specially to public buildings. I do not doubt for a moment, but that it will be some years before the proposition to erect a capitol building here will be considered. I don't think it ought to be considered for the present. I judge other people by myself in looking at those questions. I do not think the people would want it. I do not think it would be a good business proposition. I believe with my friend from Weber, that accommodations can be provided for the State officers at present here, but that is aside from the question. We ought to at least know our own minds now, not to permit this matter to go into an instrument like the Constitution as an uncertain and indefinite proposition, indicating that it will be and may be brought up from time to time. The capital ought to be fixed permanently as long as it is fixed, and when a necessity for the change shall come, then it should be removed and doubtless will be. There is a distinction between the fixing of other public institutions and the fixing of the capital. The capital is the seat of business of the government. It ought to be fixed—I mean fixed in the sense of permanently for the time, until it shall be changed as provided by that instrument. All those other matters, as I

took occasion to remark the other day upon this floor, in my judgment, are within and ought to be within the discretion and power of the Legislature, acting for the people and meeting the varying and shifting wants and necessities of the people. I hope this amendment of my friend will not prevail. It seems to me a hindrance rather than a help.

Mr. THURMAN. Mr. Chairman, I will move to strike out the latter part of the substitute. I do not believe it is right. I do think, gentlemen, it is the part of wisdom that we fix the capital to-day, and that we say that no appropriation of public money shall be made for a definite and fixed period of time. My reasons for that I will state. We cannot exactly foresee now just what the expenses of the State government are going to be. We cannot predict with any degree of certainty how much the taxes upon the people will have to be increased to carry on the State government. Times are hard. We are still in the midst of a crisis. Those times may continue a few years, and to all appearances they will. If we leave this without any limitation upon the Legislature respecting when this money may be appropriated, we will find that in the very first Legislature that meets, there will be a strong pull made upon the members to provide a fund for the building of a capitol at once, and there will be only one way by which it can be done. We are limited now in our indebtedness. Nobody wants a capitol built that can be erected for two hundred thousand dollars—the limit of our borrowing power, and the only way to do it will be by increasing the rate per cent. of taxation upon the people, and every effort will be made to induce members of the Legislature to at once increase the taxes upon the people, and provide a fund and commence the erection of that building. Now, I say, let us have time to tide over the first stage or

stages of statehood. Let us get ourselves upon a good solid footing, pay off some of the bonded indebtedness of the Territory, and stop paying interest, which is not a good business proposition, even for a state, and in the meantime, there is no doubt in my mind but what the State can arrange with Salt Lake City and Salt Lake County, for the use of the very building that we are now occupying, or a portion of it, for State purposes, by paying them a reasonably fair compensation for it. Authorize the State to do that, or the State could do it, I presume without any authority.

Mr. VARIAN. Let me ask the gentleman, does he remember the limit of taxation, in the article we have already passed—four mills?

Mr. THURMAN. Eight mills, I think. Now, we all know the influences that are brought to bear—I am not speaking now of bribery, but men buttonhole their fellow members of the Legislature and say, "Do this. We want the capitol building, it will boom the country and it will increase the value of real estate, and we want it over here. I will give a piece of ground if you will just put up the building." And it will result in raising the taxes of the people generally before we can well afford to have them raised. That is my proposition, and if we do locate the the capital today, at least let us retain that provision that provides that the appropriation shall not be made for a period of ten years. Cannot we get along? Here is a building, it is true, that does not belong to the State, but it belongs to Salt Lake City and county, and it is large enough to accommodate them and the State, and, gentlemen, it is a building that will be good for Utah Territory as a capitol for fifty years to come, just as it stands, and we can better afford to pay a reasonable rental for this building for State purposes than we can afford to raise the taxes of the people at the present time and go

on paying interest on the money that we at present owe. For that reason I am in favor of it.

Mr. MALONEY. Mr. Chairman, I am personally in favor of Salt Lake City becoming the capital of this great intermountain State that we are now building, but I like the amendment—I like something like it. Under the present circumstances of this Territory, there ought to be some limit with regard to taxation for public buildings. I agree with my friend, Thurman, that this is a magnificent structure. It will do the people of the Territory for a great many years. I don't want to see anything submitted to the people at the coming election of 1895, to give the voters an opportunity to trade one way or the other on the rejection or the adoption of the Constitution. I want the capital located by this Constitutional Convention. I want it located in Salt Lake City. The only improvement on this would be to strike out "Salt Lake City," and insert "Ogden, Weber County."

Mr. RICHARDS. Mr. Chairman, I believe there is an overwhelming sentiment in this committee in favor of the definite location of the capital at this place, so I shall not have much to say on that point. Now, as to the proposed proviso. I am opposed to that, not because I differ in my views with my friend from Utah County as to what the policy of the State should be, or with my friend from Weber County. I believe, myself, that it would be very unfortunate for the State, in the immediate future, perhaps within the limit that this Convention might agree upon, if we were going to put a limit in the Constitution of several years, to appropriate public money or incur public indebtedness for the purpose of the erection of a State building. But can we not safely leave that to the Legislature? That is the question, gentlemen. It seems to me that we can. We ought not to encumber this Constitution with

every sort of an admonition and guide-board. We must assume that the Legislature will have the same consideration for the condition of the people that we have. They will understand the situation just as well as we understand it, and when it is said by my friend from Utah that strong influence will be brought to bear upon these people to appropriate money for this purpose, I will remind him of the fact that under the apportionment that has been made, Salt Lake County will only have about one-fourth of the Legislature. Certainly if Salt Lake County cannot be relied upon, assuming that they will all go crazy and wild and that we will lose all our patriotism, and that we would be willing to wreck this State—although I think that is a very hazardous presumption—but assuming all that to be so, certainly the other three-fourths of the representatives of the State might safely be relied upon to do that which is right under the circumstances. And so I say that we ought to vote upon this proposition straight, and we ought to vote upon it without any proviso or condition; and in that connection, I will ask my friend from Weber, who proposed this amendment, with the proviso, where would be the capital, if that were incorporated in the Constitution—assuming that we take the section, just as my friend from Weber gives it to us, and put it in the Constitution, and then a Legislature were to make an appropriation for a public building, where would the capital be?

Mr. BOYER. San Juan.

Mr. EVANS (Weber). It would be at Salt Lake City, because the laws of the Territory have fixed it here, and there is nothing repealing it.

Mr. RICHARDS. What is the purpose of this proviso?

Mr. EVANS (Weber). Fixing it definitely in the Constitution, so that the Legislature cannot constantly change it.

Mr. RICHARDS. You say that the

capital shall remain at Salt Lake City, provided no money shall be appropriated for the capitol for ten years. Now, the proviso is a condition or qualification of the location. Now, when the appropriation is made, what becomes of the capital? There is but one answer. It either means that the capital would be moved, because of this appropriation—and if it was moved, to where would it go, to San Juan, or to Washington, or to Cache?

Mr. THOMPSON. Millard County.

Mr. RICHARDS. It means that the putting of this proviso in the Constitution would not mean anything. It means one thing or the other. Either the capital would move and go somewhere, or else the placing of this proviso in the Constitution does not mean anything. I say we do not want it there. It ought not to be there, and there is no necessity for it.

Mr. EVANS (Weber). Mr. Chairman, I can see the spirit that moves the gentleman from Salt Lake City. It is simply a spirit of criticism. It is a spirit favoring the location of the capital at Salt Lake City, without making any concessions whatever. He knows well enough that that matter can be very easily arranged for. If the proviso does not satisfy him on account of the word provided, why not strike it out, and as my colleague suggested to me, write in the word but.

Mr. RICHARDS. I would ask you what would then be the effect?

Mr. EVANS (Weber). It would be simply a limitation upon the Legislature to appropriate that money?

Mr. RICHARDS. It is a very different thing from a proviso, is not it?

Mr. EVANS (Weber). It is very easily arranged for. The gentleman is simply standing here for the purpose of securing something for Salt Lake City, without making any concessions at all to the people. Of course we could not expect anything else. The matter of taxation for the building of a capitol is

considerable of an item. The gentleman says that the Legislature can be safely entrusted with this matter, and no money will be appropriated under our present financial condition. I was in the Legislature in 1892, and the bill came near passing appropriating two hundred and fifty thousand dollars for the building of the capitol. I remember I was once in the Legislature of 1894—the last one. Our conditions were no better then financially than they are to-day. The Legislature was dealing then with the important question of finance, distributing the money as best they could to make ends meet and to keep down taxation. Right in that condition of things there was a strong organized movement to appropriate either one hundred and fifty or two hundred and fifty thousand dollars, I forget now——

Mr. VARIAN. I will remind the gentleman, it was a movement to borrow money.

Mr. EVANS. I understand all about it; it was either one hundred and fifty or two hundred and fifty thousand dollars to be appropriated for the purpose of building a capitol or one wing of it. At that time, my brother Varian voted against the bonding of the Territory for any more money, but did vote in favor of the appropriation for the building of this wing.

Mr. VARIAN. I beg your pardon; I did not.

Mr. EVANS (Weber). You were in favor of the appropriation. The records show it. I am sorry my friend Varian disputes this question. I know he was in favor of building a wing of the capitol.

Mr. VARIAN. I say now emphatically, I was not in favor of it at any time during the Legislature, and talked against it.

Mr. EVANS (Weber). Well, then, I would not state it. Anyway, there was a strong organized movement for the appropriation of that money, and the

honorable Judge Powers, I believe, was the gentleman who fathered the whole movement, and you all know that there were large bodies of men in the capitol building to applaud the speaker, whenever he spoke of building the capitol, because it would furnish labor. I will tell you, gentlemen, influence brought to bear upon legislators in matters of this kind, while it is not intended to be unlawful or improper, yet, they are sometimes wonderful, in order to get them to cast their votes to appropriate money to put up buildings and furnish labor. And we will find that very condition of things in this section if it stands as proposed. Locate the capital at Salt Lake City, without any conditions, and the very next Legislature will be importuned to appropriate money whether they have it or not. They may not succeed. If they do not succeed, then the next Legislature will be applied to, and finally the pressure will be brought to bear until an appropriation will be made when the people can ill afford to stand it.

Mr. MALONEY. Under the limitations in this Constitution, they never can build their magnificent capitol until they have the money on hand.

Mr. EVANS (Weber). I want to say with respect to that proviso, advocated by Mr. Thurman, that is certainly proper, to say that the State shall not appropriate any money for this purpose. I think the other proviso is all right. I think there is nothing at all degrading about it. Nothing out of taste, to put it in the Constitution—that proviso, that the city and county here shall furnish room for State offices and State purposes. I know they would be glad to do it. It seems to me they would. They would be glad to do it if they thought an organized movement was going to be made to take the capital away from Salt Lake City; but as the gentleman has stated, he seems to think that the majority of the committee here are in favor of locating it

in Salt Lake anyway. He takes that as the mind of the gentlemen here, and now, having reached that point, he says, "Now, just give us the capital, without any condition at all, and let the future Legislatures take care of this matter." If some such concessions as this be not made, I do not believe this committee ought to locate this capital at Salt Lake City in this Constitution, because we cannot afford just now to appropriate our money and build an unnecessary building, under the present circumstances anyway. Ample room and accommodations can be afforded in this building, and, as has been stated, this building would be a credit to almost any state in the Union for a capitol building. Let the people know right here and now that they are not going to be taxed for ten years for the construction of a capitol building, and it will put their minds to rest upon one very important question, and that question is the appropriation of a large amount of money for the construction of the building. Gentlemen, let us demand this concession. We should have it. It is in the interest of the people and it does no one any harm at all.

Mr. HAMMOND. Mr. Chairman, I had hoped they would get through with this, and finish up this circus without my taking the floor any more, but I can see plainly this question cannot be settled unless I take a hand in it. Now, sir, I am in favor of this proposition from my republican friend—I do not often stand by the republicans—that is Mr. Varian, to locate the capital here in Salt Lake City; and I am in favor of Judge Evans of Ogden, that there should be some conditions, perhaps, or concessions made, but I would not be particular about that. I am satisfied the Legislature will be democratic, and when our mines are fully developed in San Juan, there will be no trouble about money. We can go on and build. As to this building, I can tell you, sir, that in 1840 when I saw the national

capitol at Washington, it was not as fine a building I believe as this is today. I think the dome on top was not larger than a two bushel corn-basket—old Yankee basket, and I believe we can safely trust the Legislature for fixing this matter in a way that will be satisfactory to the entire people. Now, as to the outside counties, there is a feeling existing to my knowledge in every county from Idaho on the north to San Juan on the south, that Salt Lake is our home. Nearly every one of use went out from here, that is forty or fifty years old. It was the grand beehive, and a few of us had swarmed out temporarily, but we looked upon Salt Lake as our home. Now, these are my feelings, gentlemen, in this regard. Locate it now and fix it permanently at Salt Lake, and we will not regret it.

Mr. ROBERTS. Mr. Chairman, I am not altogether satisfied with either of these amendments. I am willing to go this far with the gentleman from Weber, who has moved that the capital be located at Salt Lake City, provided that no appropriation shall be made for the building of a capitol for ten years, and with a second proviso that Salt Lake City and county shall supply the new State with the necessary rooms for offices, etc.—I am willing to go this far, to say that the capital shall be located at Salt Lake City, and put that definitely and finally in the Constitution, but that no appropriation shall be made for erecting a State capitol for five years, and leave the second proviso out altogether. That would be the proposition that I would be in favor of voting for. I think there can be no serious objection to that—certainly, as I view it, no reasonable objection to locating the capital at Salt Lake City. That is just where it belongs. I think if gentlemen will take second thought, they will not make the location of the capital conditional upon the city and county of Salt Lake furnishing necessary rooms for State

officers. I do think it the part of wisdom, however, to give notice to the people of this Territory that there shall be security against an agitation for any increased taxation for five years, to build a capitol building. Now, sir, that is what I want to vote for, and with a view of making such an amendment as would bring that about, I shall vote for the substitute offered by Mr. Evans, with the hope that we can get it amended to make it what I have in these few remarks indicated.

Mr. EVANS (Weber). Mr. Chairman, with the consent of the house, I would be willing to withdraw the latter proviso, to the effect that the county and city shall furnish rooms.

Mr. GIBBS. Mr. Evans, if your amendment should prevail, after the lapse of ten years, would not that leave the question open again for a bid for a capital?

Mr. EVANS (Weber). No, that does not, as amended now. The first sentence locates the capital at Salt Lake City, and it simply says there shall be no appropriation made for the construction of the capitol building for a period of ten years.

Mr. MORRIS. Mr. Chairman, as chairman of the committee on public buildings, it would be natural for me to favor Salt Lake City, but I favor Salt Lake on principle as the best location for a new State capitol. This question of making appropriations came up in our discussion. I do not think that there is any danger whatever that the new State can make appropriations for the new State buildings, under the encumbrances that we are now in. It will take a good many years to get out of our debt—seven hundred and fifty to eight hundred thousand on the Territory, two or three million on the city, and about four hundred thousand on the county, so I do not think there is any danger whatever to fear that the Legislature under these circumstances can make any appropriation for the State buildings. We are perfectly safe

in regard to that, and I hope and trust that Salt Lake City will be like the old strings tied to it, trust to liberality of Salt Lake County.

It is true we are passing through a crisis now, that we have never experienced before, but I do not believe that it is going to last many years. We might find a change in six or seven years that we could have plenty. It is possible, and I do not think it is well to state the time, but trust to the Legislature that will have the interest of the commonwealth at heart.

Mr. ROBERTS. Mr. Chairman, I move to amend the substitute by striking out ten years and inserting five years.

Mr. VARIAN. Now, I ask, gentlemen, of you, what is the underlying thought that impels gentlemen to suggest the attaching of conditions to the location of your capital? Is not the capital the property of the entire Territory? Do you want to put it upon us here in Salt Lake, and make us feel that it is looked upon by you as a concession, as a matter in which we have a proprietary interest? Do you not, and will you not by your votes, in locating this capital, locate it because of the best interests and necessities of the entire people? Can you justify it to your constituents in any other way or upon any other ground? Can you go home and say, "we located it at Salt Lake City, not because that is the place for it, but because, all things considered, we got better terms by locating it there?" Now, if you admit that proposition, what sort of a reason have you for attempting to incorporate in your organic law something that would prevent the people, if their necessities demanded it, from having suitable public buildings in which to transact their business? I venture to say that this argument about what has come before the previous Legislatures is absolutely wrong in its application. The governor of this Territory, last year, at

the last Legislature, insisted, that this Territory should be bonded in the sum of two or three hundred thousand dollars, for, among other reasons, building a capitol, and it was Salt Lake people, as well as the outside, that stood up and refused to lend sanction to that undertaking, in and out of the Legislature. Do you believe that our people here, who are paying now nearly fifty per centum of the taxes of this Territory, have not enough of the burdens of taxation upon their shoulders, that they will be willing to countenance any such scheme as has been indicated here in argument? I tell you, our people do not care any more about paying taxes than do the people on the outside, and we have got all that we can stagger under now. If our Territory should be in a situation to demand it, if the business and prosperity of the country should revive, if the mines should revive to such an extent that you should have a full and overflowing treasury, as you may have—if anything like occurs in the future that has occurred in the past, there are two or three mines in this very Territory that would pay all your expenses of your State government and build a capitol too. Think of the millions of dollars, if they had been taxed during the past twenty years, that have been taken out of the mines here—twelve, fifteen and eighteen millions, from one single mine alone; if it had been taxed, where would your Territorial finances have been? I only allude to show you the necessity of leaving this matter open to the Legislature. You have limited the debt to a hundred thousand dollars, very properly.

Mr. THURMAN. There is a proposition now for five years. Do you think the capitol can be built or that any money will be appropriated—any likelihood of it being done in five years?

Mr. VARIAN. I have not considered it from that standpoint. Certainly it ought not to be built now. I say that. I was of that opinion a year ago, and I

am still of that opinion. What I am contending against is this thought that seems to be rankling between the different localities of this Territory, which is always cropping out in some such way as this, "We will locate the capitol building, but we will tie up the hands of the Legislature from, in the future, for a certain indefinite time, providing for the necessities of the State government." Now, it may well be that in two years or that in four years, or in less time, the necessities of this government may be such that it will be very desirable that you shall have a permanent place for the location of the governmental offices and the transaction of your State business. Certainly it will be desirable, just as soon as it can be completed, because until then you have them scattered about in different localities, the different departments of the government, to the manifest inconvenience of the people, and the manifest injury of the transaction of public business. Why should you fear your Legislature? Certainly, so far as the people of Salt Lake are concerned, you may rest assured that, as in the past they never have been able yet to divert the Legislature into their way of thinking in the matter of taxation, in the future they will not be able to do so. But the security is greater than that. The burdens of taxation are now resting so heavily upon this people that they will look long and anxiously into the future before they will consent—those of them who are called upon to bear these burdens, to any additional burdens. But aside from that, public buildings are not built by taxation primarily. Loans are negotiated, and the burdens of taxation to secure the payment of those loans and the interest thereon are distributed through the years, fifteen, twenty, and twenty-five years, so that the people who come after shall also, having the benefit, be called upon to contribute to their portion of the burdens. I apprehend, if there is

ever a capitol building erected in Utah, it will be in that way. I imagine that it would not be a wise policy, nor would it meet with the approval of business men or the taxpayers anywhere, to levy a tax to raise at once the amount of money necessary to erect a capitol building. I will confess I had not considered it in that light, and I did not think it possible and do not think it possible now. I only say that you are getting entirely too precise, too much in detail, when you undertake to tie up the hands of your Legislature in a matter of this importance. You can rest assured that the Legislature will not for years to come undertake to bond this State—certainly not without the assured approval of the people behind it. I trust that you will not lumber up this Constitution with conditions and provisions of this kind.

Mr. THURMAN. Mr. Chairman, I would not again trespass upon the time of this committee, but some of the gentlemen from Salt Lake have insinuated that there is an underlying thought—there is a motive. Now, gentlemen, if any of that has reference to myself, I appeal to any man on this floor to state when, where, at what time, I have ever raised a question against Salt Lake for the capital. It is true, some men from Provo in the past have represented Provo as the proper place. It is a proper place. It is a place that is just as suitable as any in the Territory, but, gentlemen, I have not set forth any claims for Utah County in this respect. I came here with a view to assist in making a Constitution for the benefit of the people, without reference to the little spot of ground where I happen to have my home. And I call your attention to the fact, gentlemen, if you doubt this, that in a speech on this floor, nearly two months ago, I had something to say incidentally on this subject. Why is it, when I stand up here and make a motion that I believe to be in the interest of the people, the taxpayers of the

country, and in fairness and in justice, to not only the people that I represent, but to all the people, that Salt Lake men stand up here and impugn my motives? That is the question, gentlemen. You have no right to do it. I tell you the proposition advanced is a fair one, and the people of this Territory, I believe, with all my heart, will regret it in the first Legislature, and in the second Legislature, and in the third Legislature, if we do not adopt just such a provision as we here desire to have adopted. You all know that we cannot commence to build the capitol in five years, and probably not in ten years. Then, why not put the matter at rest? Why not give the Legislature—the first one that will meet in the State, the second one, and the third one, a rest on this proposition, and where they will be in a position to say, “Hands off, gentlemen, we can do nothing.” You know, gentlemen, just as well as you know you sit on this floor, that there will be lobbies from Salt Lake in the very first Legislature that meets, harassing the Legislature from day to day, invoking debate and discussion, from day to day, as we have had here on this floor, in relation to just such questions as this. It is time to prevent that. It is for peace. It is to settle it once for all, that this thing cannot be done at least for five years, and I say it ought not to be done for ten years. And I shall vote for that proposition, and, gentlemen I think that you are unreasonable, when you stand here and insist that there is some underlying motive or thought in men who are standing here just as much as you are, contending for the public good. I repudiate any such insinuations. I say that they are unjust, unwarranted, uncalled for, and there is nothing in my course on this floor that justifies any man in saying that I have a selfish motive in relation to any of these things.

Mr. RALEIGH. I want to ask the gentleman from Provo a question. What is the reason, or is there any

reason why this question cannot be settled here as a separate proposition without any conditions, and then make the conditions in another article or proposition—any time hereafter, before the close of this Convention.

Mr. THURMAN. Well, what is the difference? This is a common provision. Gentlemen say that it is not. I say there are constitutions that have just such a provision as this, keeping the Legislature's hands off for a given time, and no man can say that it is an unreasonable one. Does it mar our Constitution? Is it an eyesore to anybody? Whom does it hurt? Who is aggrieved? If I had the disposition to impugn motives as gentlemen have impugned mine, I would say that Salt Lake men, who are standing upon this floor contending that there should be no limitation, have something in mind themselves.

Mr. VARIAN. I would like to ask the gentleman a question. Whom does he mean when he talks about Salt Lake men impugning motives? Does he mean me?

Mr. THURMAN. Yes, sir; I mean the gentleman.

Mr. VARIAN. Well, then, I say you are entirely mistaken. I said nothing to impugn motives. The gentleman is defending himself before he is attacked.

Mr. THURMAN. I want to know what the gentleman meant when he said there was an underlying thought? He meant there was something concealed in the motives of the men who were contending for this proposition.

Mr. ROBERTS. Mr. Chairman, it seems to me that there is a misapprehension in relation to this amendment, as it now stands. It seems to me in the minds of some who have spoken that we are locating the capital at Salt Lake with a proviso. Now, sir, I take it, there is no proviso in this amendment. It locates the capital at Salt Lake most definitely, without any proviso. But there is a separate proposi-

tion accompanying it, and that is merely this, that there shall be no appropriation made for the building of a capitol building for the next five years.

Mr. JAMES. Isn't this, Mr. Roberts, strictly what is done in Congress and is called a rider to force you to accept of one proposition or you will have to reject the whole?

Mr. ROBERTS. No, sir. There is no rider about it. It is a separate matter altogether. I hold that the amendment locates the capital at Salt Lake City, and there is no possibility of putting any other interpretation upon it. The proviso that makes it conditional has been withdrawn, and now this locates the capital at Salt Lake City, but it does say that the Legislature shall make no appropriation for the construction of the capitol building for five years. The gentleman from Provo argued of this kind as an easement upon the Legislature, that they might not be troubled with lobbyists who would come here for the purpose of getting appropriations to begin a capitol building, and who would doubtless appear before the first Legislature, and I think his reasoning was very clear upon that point. But, sir, the way this matter appeals to me is, not that you may relieve the Legislature from the inconvenience of lobbyists, but that you give an assurance to the people that they will not be plagued for five years to come, there, with propositions to bond the State to build a capitol building, or increase the taxation to accomplish the same purpose, and that is all there is to it.

Mr. THATCHER. Under what authority has the Territory of Utah been put under public debt. Was it by the act of the Legislature?

Mr. ROBERTS. I think it was.

Mr. THATCHER. If so, then we have reason to place this limitation upon the Legislature?

Mr. ROBERTS. I think so.

Mr. THATCHER. A period of five or ten years will do us no harm, but a great deal of good.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I notice in looking back in the bill of elections and suffrage we have a provision that will assist us in this matter, namely, that referring to a property qualification of voters. Were it not for this, I would vote for the five years' provision, but I do not believe that there are any people, in this city especially, or any of our larger cities that are so terribly in debt, that would be willing for any special tax, or any election proposition, to bond this city or bond this Territory, to build a State capitol, that they will submit to, because here is a provision to allow the people to vote on the subject. For this reason I believe that we are safe trusting to the people. If it is only the Legislature—while I do not doubt their honor, I would be in favor of this proposition for five years, to make the people safe.

The question being taken on the amendment of Mr. Roberts, the committee divided, and by a vote of 43 ayes to 7 noes, the amendment was agreed to.

The CHAIRMAN. The question is now on the substitute as amended.

Mr. CHIDESTER. Mr. Chairman, I arise to a point of order. The point of order is that when we voted on Mr. Roberts' amendment, that settled it.

The CHAIRMAN. The point of order is not well taken.

Mr. IVINS. I appeal from the decision of the chair.

Mr. VARIAN. I arise to a point of order. The gentleman can appeal after this vote is taken, but he cannot interrupt a vote.

The CHAIRMAN. The chair will state the motion upon which we are voting. An amendment to the substitute offered by Mr. Varian for section 3 and the amendment as amended now, by the gentleman from Davis, is as follows:

The location of the seat of government shall be at Salt Lake City, but no appropriation of money for the construction of a capitol building shall be made for a period five years.

The question being taken, the committee divided, and by a vote of 33 ayes to 31 noes, the motion was agreed to.

Section 4 was read.

Mr. BUTTON. Mr. Chairman, I move that section 4 be stricken out.

Mr. CANNON. Mr. Chairman, I am opposed to striking it out. It provides that it should not thereafter be changed except by a two-thirds vote.

Mr. JAMES. Mr. Chairman, if I understand the question right, I am in favor of striking it out. The capital is fixed at Salt Lake now permanently.

Mr. CREER. Mr. Chairman, this is a provision that is almost universal: That it may be changed by a two-thirds vote.

Mr. SQUIRES. I suggest to the gentleman from Salt Lake that that is a very wise provision. If they get the capital located at Salt Lake it takes two-thirds to take it away.

Mr. JAMES. They cannot take it away at all.

Mr. SQUIRES. They can, by an amendment to the Constitution, at any time.

Mr. RICHARDS. Mr. Chairman, I desire to offer an amendment to this section. I think some members misapprehend the scope of it. The fact that the capital has been located does not remove the necessity for this section. I move that all of lines 1, 2, and 3, down to the word be, be stricken out, and the following substituted: "The location of the capital shall not."

The motion was agreed to.

Mr. THURMAN. I want to ask the gentleman a question. What is the use of this? Is it not liable to be changed by an amendment to the Constitution, which requires the same vote? The vote is by two-thirds to

amend the Constitution. I am in favor of the motion to strike out the whole section.

Mr. RICHARDS. I desired to amend the section before the motion to strike out was put. I shall vote to strike it out at the proper time.

The question being taken on the motion to strike out, the committee divided, and by a vote of 28 ayes to 25 noes the motion was agreed to.

Section 5 was read.

Mr. ANDERSON. Mr. Chairman, I move we strike this section out.

The motion was agreed to.

Mr. CHRISTIANSEN. Mr. Chairman, I have an amendment to make to section 6, subdivision 5. Strike out all after the word "blind," in line 17, and insert "in the county of Sanpete, site to be settled by the Legislature."

Mr. MURDOCK (Beaver). Mr. Chairman, I move to insert "Fort Cameron, Beaver County."

Mr. RICKS. Mr. Chairman, I move we strike out all after and including line 16.

Mr. THURMAN. Mr. Chairman, I arise for information. Isn't there something in the Enabling Act providing for an institution of this kind.

Mr. CORAY. Yes, sir; and an appropriation.

Mr. SQUIRES. Is it not attached to the university?

Mr. THURMAN. Well, I do not know as to that.

Mr. CREER. Mr. Chairman, there was no permanent institution for the deaf, dumb, and blind, and there is quite an appropriation for that institution made by the Enabling Act. It is true, we located the university, but not the institution for the deaf, dumb and blind.

Mr. THURMAN. Can any man inform me whether the deaf and dumb institute is a part of the university now by existing laws? If it is, then it is located at Salt Lake City by our ac-

tion the other day. I am in favor of striking it out.

Mr. JOLLEY. Mr. Chairman, I trust that this motion will not prevail. I trust that it will be voted down.

Mr. BUTTON. If the gentlemen will withdraw all their motions and pass this into the Convention, they can make these amendments in there.

Mr. CHRISTIANSEN. I will withdraw the motion.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee of the whole has had under consideration the article on corporations other than municipal, on public lands, on salaries of officers, and report the same to the Convention with the recommendation that they be put upon third reading. They have also had under consideration the article on public buildings and State institutions, and report progress.

On motion the Convention then adjourned.

FIFTY-SEVENTH DAY.

MONDAY, April 29, 1895.

The Convention met pursuant to adjournment, President Smith in the chair.

Roll call showed a quorum present.

Absentees—Hart, Kearns, Francis, Kerr, Larsen, C. P., Lewis, Low, of Cache, Lowe, Wm., Peters and Pierce.

Excused—Keith, Eldredge, Moritz, Buys, Gibbs and Ryan.

Prayer was offered by Delegate Heybourne, of Iron.

Journal of the fifty-fifth day's session was read and approved.

The Convention then resolved itself into committee of the whole, with Mr. Evans, of Weber, in the chair, and resumed the consideration of the article entitled public buildings and State institutions.

The CHAIRMAN. The chair under-

stands that we got down to the fifth subdivision of section 6.

Mr. KIMBALL (Weber). Mr. Chairman, I move to insert in the blank in the fifth subdivision, after the words, "institution for the deaf, dumb, and blind," the words, "at the city of Ogden, in the county of Weber."

Mr. RICKS. Mr. Chairman, I move that we strike out lines 16, 17 and 18 of this section.

Mr. CHRISTIANSEN. Mr. Chairman, I present the same amendment here this morning that I offered Saturday evening, when we adjourned, that was to strike out all after "blind," and insert "Sanpete County, the site to be selected by the Legislature."

Mr. KIMBALL (Weber). Mr. Chairman, I think that it is to the best interests of the State institutions that the location ought to be made permanently now, and I think that for this reason: In view of the fact that the present building occupied by the deaf, dumb, and blind has been transferred by this Constitution to the university, now, I think, for the benefit of that institution, as well as for the benefit of the pupils that are taught in it, the institution ought to be located permanently, and it seems to me that Ogden City offers more inducements, and has more facilities than any place in the Territory outside of Salt Lake City. So far as the institution itself is concerned, the Territory now owns buildings in Ogden City, amply sufficient to accommodate all of the pupils for years to come and at very little expense. The next Legislature can so arrange those public buildings as to accommodate this institution. For another reason, it seems to me that it ought to be located permanently, it is a central location, accessible, not only to all parts of this Territory, but all parts of the surrounding states and territories, and in view of the fact that neither Montana nor Idaho has institutions of the character—if Logan had a central location such

as Ogden is, there would be a considerable number of outside students. I submit, Mr. Chairman, that my amendment should be adopted.

Mr. JAMES. Do I understand the proposition made by Mr. Kiesel and other delegates from Ogden is still held good?

Mr. KIMBALL (Weber). I have no doubt, sir, but that will be held good. My view was that the Legislature would take the reform school building for this institution, and the other buildings for a reform school.

Mr. RICKS. Mr. Chairman, I believe it would be a mistake for this Convention to locate permanently either the reform school or the school for the deaf, dumb, and blind, for the reason that we have not yet definitely settled in our minds where these institutions ought to be located. It was a question at the last Legislature whether the reform school ought to be continued or not, and it is a growing sentiment throughout the Territory to-day that the school ought to be abandoned, because of its expense to the State. Now, Mr. Chairman, while the arguments of Mr. Kimball may apply all right to the deaf and dumb school, it seems to me that it would be a mistake for this Convention to locate that school. We do not know, sir, but what in the near future we may want those buildings and the grounds at Ogden, for the State normal school. The state normal school, as I understand it, is not yet permanently located, and I believe it would be for the best interests of the State to strike out the third subdivision, and also the fifth, and leave the matter of reform school, the school for the blind, and also the state normal school, for future action of the Legislature.

The amendment of Mr. Christiansen was rejected.

The amendment of Mr. Kimball, of Weber, was rejected.

The motion of Mr. Ricks was agreed to.

Mr. RICKS. Mr. Chairman, I move you, sir, that we strike out lines 12 and 13, of the third subdivision.

Mr. IVINS. I would like to hear the gentleman's reasons for asking that this section be stricken out. We may carry this thing to an extreme, if we commence to follow on in the line proposed.

Mr. HEYBOURNE. Mr. Chairman, I am of the opinion that this is somewhat of a sweeping motion. I understand that institution has quite a record, costing the Territory considerable. To go now to work and strike this matter out, I think it is a little unusual and wants some explanation. Therefore, I shall oppose the motion unless the gentleman can furnish some good reason for his action.

Mr. RICKS. Mr. Chairman, my reasons are, as I just stated, that the reform school is not a permanent institution of the State; that there is a growing sentiment throughout the State that it ought to be abolished because of its expense to the State. Now, if we strike that out, it does not discontinue the reform school. It remains just as it is at the present time, located at Ogden, subject to be removed or abolished, or some change made, as contemplated by Mr. Kimball, and the Legislature may desire, and I believe, sir, it is for the best interests of the State to not locate that in the Constitution, but leave it wholly to the Legislature.

Mr. JAMES. Mr. Chairman, I cannot realize how it can be that a growing sentiment can be found in the Territory of Utah to abolish our reform school. If there is a necessity, to my mind, it is the reform school. Why, Mr. Chairman, just think of these little urchins that are without fathers or mothers—

Mr. BUTTON. Mr. James, Mr. Ricks will withdraw that and let it come up on the third reading.

Mr. RICKS. I will withdraw it, yes.

Mr. BUTTON. Mr. Chairman, I move that the article as amended be passed and referred to the Convention for third reading.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled schedule.

Sections 1, 2, 3 and 4 were read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "accordingly," in the twelfth line of section 4, the following words:

All taxes assessed or levied under the laws of the Territory of Utah shall continue taxes assessed and levied in the State of Utah, and their validity shall be unaffected by the change to statehood.

I think there is an omission to provide for that.

Mr. KIMBALL (Weber). Mr. Chairman, in line 7, at the end of the line, I move to strike out the word "or," and in line 9, after the word "Utah," insert "or the people of the Territory of Utah." I do that for this reason, that all criminal bonds or recognizances now run to the people of Utah, and not the people of the United States in the Territory of Utah.

The CHAIRMAN. What is the use of the words "people of the United States in the Territory of Utah?"

Mr. KIMBALL (Weber). Some years ago all recognizances ran to the people of the United States in the Territory of Utah, and all criminal recognizances and judgments in favor of the Territory were taken in that name, that is why, I suppose, that language is inserted here. It was discontinued in 1884. In 1884, the Legislature changed the style of process to the people of the Territory of Utah—or 1878, originally, I think.

The amendment of Mr. Kimball, of Weber, was agreed to.

Mr. ROBERTS. I would ask Mr. Richards, if he would have any objections to changing the last word of

his amendment, to "State goverment," instead of "statehood?"

Mr. RICHARDS. Certainly not, I think the phraseology would be better. It was written in haste.

The CHAIRMAN. I would like to call Mr. Richards's attention to the fact that the schedule in another place continues all the laws of Utah in force under the State government. Would not that cover it?

Mr. RICHARDS. I am afraid not. This section, you will observe, deals particularly with the revenues, property, etc. It seems to me that in order to make that absolutely safe we ought to include taxes.

Mr. RICKS. I would like to ask Mr. Richards if he would insert, "taxes" right after "fines," in the third section, if that would not answer that same purpose?

Mr. RICHARDS. I think not; I do not think it is broad enough to meet the question.

Mr. EICHNOR. Mr. Richards, would not your amendment be covered by the word "revenue," in line 13, and the provision in another section that all the laws of the Territory of Utah would be in force?

Mr. RICHARDS. I think not. In my view the taxes assessed are not revenue until collected. I do not think that is covered by anything in the schedule, or else I would not have suggested it. This section, as I remarked before, is an enumeration of the various things that are to be preserved to the State, and I think that it would be dangerous to omit any thing that is desired to be preserved.

Mr. RICKS. Mr. Chairman, Wyoming, Washington, South Dakota, which have recently formed constitutions, have nothing in the constitutions that cover the amendment made by the gentleman. I believe that the word revenue there, taken in connection with the second section, will cover the ground.

Mr. GOODWIN. I would like to ask

Mr. Richards if the words "assessed taxes" would not cover everything, put after the word "and," at the end of line 12?

Mr. RICHARDS. Possibly it might, I am not sure. Of course, in framing this amendment, I desire to say that I prepared it so that there would be, as I thought, no possibility of mistaking the meaning of it, and it seems to me that any section of the importance of this we should be careful to leave it unambiguous. If there is any sort of doubt about the necessity of this amendment, the amendment ought to be adopted, because this is exactly the reverse of the usual effect of the provisions we are putting in the Constitution. Ordinarily the provisions that we are putting here are restrictive of the powers of government, but this provision is just the reverse of that, it is preservative. This section is for the expressed purpose, not of limiting, but of preserving to the State all that belongs to it, and if there is any doubt about the matter, the doubt should be solved in favor of making it explicit and full. Therefore, I think the amendment is necessary, or, I would not have proposed it.

Mr. HAMMOND. May I ask Judge Richards a question? What, sir, in your opinion, would be the effect, if this amendment of yours should not prevail? Could we not assess and collect taxes? Would that be the end of taxing the people? If so, I would support it.

Mr. RICHARDS. The gentleman from San Juan does not apprehend the purpose of the amendment.

Mr. HAMMOND. No, I do not apprehend it.

Mr. RICHARDS. It is not that I apprehend there would be no power in the State to assess, but there might be taxes assessed under the territorial form of government, which were not yet collected at the time the State government takes effect, and it is to pre-

serve those taxes and allow of their collection.

Mr. HAMMOND. I am in favor of taxing every time. If we could not collect it we ought to.

Mr. GOODWIN. Mr. Chairman, I move as an amendment that the words "and assessed taxes" be inserted after the word "accordingly."

The amendment of Mr. Goodwin was agreed to.

The amendment of Mr. Richards was rejected.

Section 5 was read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "State," in line 6, the following words: "And in the court having jurisdiction thereof under this Constitution."

Mr. RICKS. Do not you think that that is fully covered in section 6?

Mr. RICHARDS. I offer this amendment for the purpose of offering a substitute for section 6. I think section 6 is not well constructed, and I think I can offer a substitute much shorter for the section. I have no objection to reading it. I shall offer the following as a substitute for section 6:

All actions and proceedings, which may be pending in any of the courts of the Territory of Utah at the time of the change from a territorial to a state government, may be continued and transferred to the State court or courts having jurisdiction of the subject matter thereof under this Constitution.

The amendment of Mr. Richards to section 5 was agreed to.

Section 6 was read.

Mr. RICHARDS. I desire to submit the substitute just read for that section.

Mr. VARIAN. Mr. Chairman, that substitute does not cover the section, with all deference to my friend from Salt Lake. There are numbers of cases pending in the district courts of which the United States courts have jurisdiction. Provision ought to be made here for the transfer of such causes upon the proper application being made within a specified time. At least, I should

think the time might be specified, although that may not be so important. The original article provides for the excepting out of causes that would have been within the exclusive jurisdiction of the United States district court. In the first place, there are no causes excepting criminal cases that are within the exclusive jurisdiction of the United States district court, or the United States circuit court either. The general jurisdiction is concurrent. Provision is made, under the acts of Congress, for, in proper season, where a case is brought in the state Court, of which the United States court has cognizance, for the transfer of such causes with certain limitations and restrictions. Later in the section, provision is made for the transfer of causes from the supreme court of the Territory to the United States circuit court. That will not do. We do not want to transfer anything from the supreme court of the Territory to the United States circuit court, because the United States circuit court is pre-eminently a nisi prius court, and the cases pending in the supreme court of the Territory will have been tried. It is impossible, of course, to, in a moment, prepare with particularity a schedule that shall cover this somewhat intricate and involved proposition. On yesterday I submitted the question to one or two gentlemen whom I knew were interested in the matter, and of some very considerable eminence here at the bar, and I have not seen them this morning. That is what delayed me. I have not been able to do it. Possibly we may pass the question in committee of the whole and let it come up tomorrow in proper shape. I simply make this suggestion.

Mr. RICHARDS. I would like to ask the gentleman a question. Omitting the last three words, "under this Constitution," which ought not to be in the section, and I, therefore, ask the chairman to strike them out—they were not there as originally written—I ask Mr.

Varian why this section would not cover the ground.

The CHAIRMAN. I suggest if that word "may" should not be "shall?"

Mr. RICHARDS. No objection to making the change.

Mr. VARIAN. I call attention of the gentleman to the fact that there are different classes of cases under the federal judiciary act, which may be transferred, and for different reasons. In certain cases there may be transfers upon the ground of local prejudice, and the moving cause of transfer is an affidavit. In others it is the citizenship of the party. In others, it is where claims are made upon grants of land, from different states, and so on. The only exclusive jurisdiction of the United States courts is that of criminal cases arising under the federal Constitution. Now, what we want is to draw this thing with particularity, not necessarily that they should be transferred, but, if in accordance with the act of Congress, within a certain time after the adoption of this Constitution, any party who would have been entitled to have it transferred, if at the time they were commenced there was a State government here, they do so. I would not absolutely put a fiat in there that they should be transferred, because that would conflict again with the congressional act under the Constitution of the United States. You will see that it requires some degree of detail and particularity. I had hoped to have been able to put my ideas in more specific form this morning, but I was waiting on these other gentlemen.

Mr. BUTTON. Mr. Chairman, I was going to ask if we could not pass this section and let the gentlemen have their amendments printed in the minutes tomorrow?

Mr. VARIAN. It could come up, if Mr. Richards did not object, on the third reading. There is nothing in this except to get it exactly right.

Mr. RICHARDS. That is all, as far

as I am concerned; it makes no difference whether the consideration is postponed and we take it up after lunch in the committee, or whether we go on and act on the substitute. I was going to remark that the remarks of my friend from Salt Lake have given me considerable confidence in the section I have proposed. I believed it was about right before, and certainly he has not pointed out any weakness in the section. I ask to have this section submitted as a substitute.

The CHAIRMAN. The chair is somewhat delicate about making this statement, but it is firmly of opinion that we ought to continue this until third reading. It is very important and it ought to be considered very carefully.

Mr. RICHARDS. If the gentlemen desire to have me withdraw this and present it on the third reading, I am willing to do it.

Section 7 was read.

Mr. GOODWIN. Mr. Chairman, I suppose this is all right, but I do not understand it. I arise for information. The sentence beginning in the middle of line 15—are the probate judges to remain in office after the district judges are elected and qualified?

The CHAIRMAN. According to this schedule, they are. They are to hold office until the first day of January, 1896. I suppose the idea of the committee was to give ample time to have the matters in the probate court transferred to the district court.

Mr. GOODWIN. The judges will not take their office until next January?

The CHAIRMAN. Yes; that is right.

Mr. RICKS. Mr. Chairman, I think there is a provision somewhere in the Constitution that provides that all officers elected under this Constitution shall take their offices immediately upon the issuing of the proclamation of the President.

The CHAIRMAN. The chair can answer Mr. Goodwin's question in this way, if it will be permitted: That

when the President proclaims Utah a State, the Constitution immediately goes into effect, and the jurisdiction then of the probate courts would be given to the district courts, but the idea is to continue that thing until the first day of January, 1896.

Section 8 was read.

The CHAIRMAN. The chair would like to make a suggestion, that after the word "of" in line 8, the word "this" be inserted, and the words, "the above" be stricken out.

Mr. BOWDLE. Mr. Chairman, that is just the motion I was going to make, because that would refer to the other section. Therefore, I move you that the word "the" and "above" be stricken out, and the word "this" be inserted.

The amendment was agreed to.

Section 9 was read.

Mr. RICKS. Mr. Chairman, I have an amendment to offer to that section. In line 3, after the word "held," strike out the word "and" and insert the following, "on the Tuesday next after the first Monday in November, 1895, and shall be." The reason for that is this: I notice that we have not anywhere in the schedule specified the date of the election of State officers, while we have set the date for the adoption of the Constitution, and it is thought better to name the day on which the election of State officers should be held, as well as the adoption of the Constitution.

Mr. MALONEY. Mr. Chairman, I have an amendment I wish to make, to strike out the word "and," in line 13, and in lieu thereof insert the following: "All electors qualified to vote under this Constitution may vote."

The CHAIRMAN. We will pass on the amendment of Mr. Ricks, as it is a different part of the section.

Mr. CREER. I will ask the chairman of the committee if it is necessary—it is specifically provided for in section 4 of the Enabling Act, that there should be an election on that date for the adoption of the Constitution.

Mr. ANDERSON. This is for State officers.

The amendment of Mr. Ricks was agreed to.

Mr. GOODWIN. Mr. Chairman, I want to offer an amendment in line 12, after the word "election," to add "and are qualified voters," because there might be a great many citizens 21 years of age who would not be registered at that date or who might have been convicted of some crime and therefore not qualified to vote.

Mr. RICHARDS. Mr. Chairman, I move an amendment to insert after the word "election" the following words, "and all persons who are qualified to vote at elections held under this Constitution after its adoption." I think that is necessary under the Enabling Act.

Mr. VARIAN. Mr. Chairman, I submit that it is not germane to the other amendment.

The CHAIRMAN. The chair will rule under the circumstances that Mr. Goodwin's amendment will be put first.

The amendment of Mr. Goodwin was agreed to.

The CHAIRMAN. Mr. Maloney offers the following amendment to section 9: After the word "and," in line 13, insert the following: "All electors qualified to vote under this Constitution may vote."

Mr. RICHARDS. Mr. Chairman, I think this amendment is all right as far as it goes, but I do not think it goes far enough. I think that under the law all electors of the proposed State have the right to vote for this Constitution, and if they do not vote for or against it—in other words, if it is not submitted to all the electors of the proposed State, it will not be a valid submission; that is my contention, and hence, no matter how many votes may be cast for it, the Constitution would not be adopted and the State would not be admitted. Now, I know that this view was denominated an absurdity by distin-

guished gentlemen on the floor of this Convention at an earlier day in the session, when their attention was called to the matter, but it does not matter if that suggestion was made, it is a very serious question, gentlemen, that confronts us here this morning, and it is a question that no man on the floor of this Convention, and no member of this committee, can afford to allow his personal feelings and prejudices to control his judgment in relation to. I submit that if we make a mistake in this matter and do not submit this Constitution to the people who have a right to vote upon it and it fails for that reason, a grave responsibility will rest upon the members of this Convention. Now, I propose an additional amendment to the one which I have already suggested to be added to the end of this section; that all the votes given by female voters for or against this Constitution shall be deposited by election officers in a separate box and canvassed separately and so certified by the commission.

Now, my purpose for offering these amendments is this, if it be true—and I stand not here alone advocating this view of the matter; I have in my pocket a communication addressed to this Convention that would have been presented if I had been so fortunate as to get here this morning before you went into committee of the whole, addressed to the president and members of this Convention, signed by Judge J. G. Sutherland, Charles C. Dey, John A. Marshall, George Sutherland, H. P. Henderson, and in addition to those names, many other distinguished members of the bar of this Territory, entertain the same view, that these people have a right to vote on this Constitution, either for it or against it, and any submission of the Constitution to the people that did not include and carry with it the right of these people to vote, would not be a legal submission. Now, as I say, I desire to meet the views of all parties. I desire to be cautious in

this matter, and for that reason, while I make the proposition that all persons who are entitled to vote under this Constitution at subsequent elections, shall vote for or against the Constitution, and for the State officers, I also would provide that the female votes shall be taken separately so that no harm can result from taking a vote, and it may be the means of preventing the defeat of statehood.

Mr. SQUIRES. Will the gentleman read the letter that he gave the signatures to?

The CHAIRMAN. Unless the gentleman desires to read it as a part of his remarks it would not be proper.

Mr. RICHARDS. Inasmuch as this is a public matter, I will read it cheerfully.

Mr. GOODWIN. At the same time, may I ask the gentleman what the object is of having a separate vote in this case?

Mr. RICHARDS. Simply this, that if the contention of the gentlemen who say that this is an absurdity, and that these people are not entitled to vote, should be correct, then the vote ought to be separate or ought not to be taken at all.

Mr. GOODWIN. Who is to determine that?

Mr. RICHARDS. That is a matter that the courts will determine, of course. This Convention cannot determine it, no matter what view we take. Our decision on this matter is not final. We are not the arbiters. We cannot tell who are the qualified voters here, and have our decision final. Therefore, let us proceed in such a way that there can be no question in regard to this matter. If the vote be taken and their votes are not necessary or are improperly cast, it is not necessary to count them, or at least if the Constitution should be adopted without the vote, there would be no question as to its adoption. If the Constitution was not adopted without the female vote, then the question could be

tested as to whether or not they were proper electors, and it could be thereby determined whether or not the State should be admitted. I will read what these gentlemen say on this subject:

To the President and Members of the Constitutional Convention:

The undersigned, members of the legal profession, having a common interest with other citizens of Utah, not only in the formation of a good Constitution, but in a regular submission of it for adoption by the people, and observing that there is considerable diversity of opinion on the question whether the persons who may exercise the elective franchise under this Constitution, if adopted, may vote at the election next November for its ratification or rejection, we offer the following suggestions on that subject: Section 4 of the Enabling Act fixes the time for that election and contains this language, as to voters: "The qualified voters of said proposed State shall vote directly for or against the proposed Constitution and for or against any provision separately submitted." Section 2 also contains a provision on the same subject in these words: "Persons possessing the qualifications entitling them to vote for delegates under this act, shall be entitled to vote on the ratification or rejection of the Constitution." They are "all male citizens of the United States over the age of 21 years who have resided in this Territory for one year next prior to such election." It is supposed by some that the persons thus mentioned in section 2 are the only persons entitled to vote for or against the Constitution, on the maxim that the mention of one person or class is an exclusion of others. The maxim is sound and applicable, for the right to vote at this election must be granted and the right can be exercised only by those to whom it is granted. The mention of those who may vote need not be in one section exclusively. Particular persons may be mentioned in one section and others in another, section and the maxim will cover the accumulative enumeration, and only those not mentioned in either section will be excluded. Does section 4 profess to confer the right to vote, and by a different and possibly more comprehensive description than that contained in section 2? We think it does. The qualified voters of the proposed State are manifestly those who will be qualified voters when the proposed State becomes a State, those who possess the qualifications that the Constitution of the proposed State requires. The persons declared entitled to vote in section 2 are not declared in

that section to be qualified voters of the proposed State, and in our judgment the Constitution might be so framed that no male citizen only 21 years of age could vote, so that no citizen who has not resided in Utah longer than one year could vote.

On the other hand, the Constitution may so define the qualification of voters that they may exercise the right at and over eighteen years of age, and after six months' residence. If so, it may define the right in a manner to make no distinction between the sexes. The qualified voters of the proposed State, according to the requirements of the Constitution, including the persons mentioned in section 2, whether they possess all the constitutional qualifications or not, would seem plainly to be the persons to whom the Constitution must be submitted. In other words, if women are guaranteed in the Constitution the right to vote, they have the right to vote on the ratification or rejection of the Constitution. It has been suggested that the expression "qualified voters of the proposed State," means the voters within the boundaries of Utah, and has no force to require anything, but being voters within that area. Doubtless it requires residence within that area, for it requires them to be qualified voters. To be such, they must have all the qualifications enumerated in the Constitution. It should be borne in mind that constitutions generally prescribe the qualification of the persons to whom the question of their adoption is submitted; those who will be qualified to vote after the adoption of a constitution may fitly be trusted to decide whether it shall be adopted. The submission of the Constitution to the qualified voters of the proposed State follows the American practice, is strikingly consistent with the other features of the Enabling Act, with providing for the election of the first State officers at the very election at which the adoption of the Constitution is to be decided.

Signed, J. G. SUTHERLAND,
CHARLES C. DEY,
JOHN A. MARSHALL,
GEORGE SUTHERLAND,
H. P. HENDERSON.

Mr. BOWDLE. I would like to ask Mr. Richards a question. Was this article prepared by those gentlemen?

Mr. RICHARDS. I have no knowledge by whom it was prepared. It was handed to me by Judge Sutherland. Perhaps he can furnish you the information with regard to its preparation.

Mr. SQUIRES. How many signatures are there to that letter?

Mr. RICHARDS. I read the signatures; five of them.

Mr. SQUIRES. Is that all?

Mr. RICHARDS. Five is all.

Mr. SQUIRES. I understood you to say a large number of other members of the bar.

Mr. RICHARDS. I did not say that the others had signed this communication. There are a number of other distinguished members of the bar who entertain this view.

Mr. SQUIRES. What is the political complexion of the signers of that?

Mr. RICHARDS. I have not considered that. I will look at them and see.

Mr. SQUIRES. I would like to inquire whether they are all democrats?

Mr. RICHARDS. I think George Sutherland is an orthodox republican. He was proposed as a candidate for delegate to Congress, I believe, by the republican party at one time.

Mr. GOODWIN. I want to ask Mr. Richards a question. That is, would this be carrying out the will of Congress in conformity with this Enabling Act?

Mr. RICHARDS. I think that Congress intended that the women should vote, provided that the Constitution should provide that they should have the franchise. If I did not, I certainly should not propose it.

Mr. EICHNOR. Have you any precedents in the United States where the state has been admitted that voters that were enfranchised, so, to speak, under that constitution, that they could vote on the adoption of the constitution?

Mr. RICHARDS. I do not know that I can refer to any particular instance at the present time, but if I understand the gentleman's question, this proposition is in consonance with the uniform practice in all the states. I understand it to have been the uniform practice for the voters of the proposed state to vote on the constitution. In other words, all those who would have the right to vote

under the constitution or in the state after the constitution was adopted and the state government organized, have a right to vote on the constitution as to its adoption. That is my understanding. I do not think that you will find an exception to that. If there is one, I am not aware of it.

Mr. BUTTON. Section 2 says, "all male citizens." Do you think that if the Congress of the United States was going to allow all the people of the Territory to vote, they would have said "male citizens," or would not they have said "the citizens of the Territory?"

Mr. RICHARDS. That relates to the qualification of those who shall vote for the delegates to this Convention.

Mr. BUTTON. That is very true. Later, it says, that those qualified to vote for delegates shall be qualified to vote on the adoption of the Constitution.

Mr. RICHARDS. That is right, but it does not say that no others should be entitled to vote, and in the fourth section it expressly says that all the electors of the proposed State shall vote.

Mr. EICHNOR. I would like to ask Mr. Richards another question. I want to get the right of this. If the question of woman's suffrage had been submitted as a separate article, could the women have voted on the Constitution as a whole—could they have voted on the separate article, or could they have voted at all?

Mr. RICHARDS. I will answer you in the language of the Enabling Act, section 4.

Mr. EICHNOR. If you answer my question the way I put it, I think I can get a precedent. Could they have voted on the adoption or the rejection of the Constitution if the question of woman's suffrage could have been submitted as a separate article?

Mr. RICHARDS. This makes no distinction. This section says that the qualified voters of the proposed State

shall vote directly for or against the proposed Constitution, and for or against any provision separately submitted. Certainly nothing could have been more explicit than the language of the act itself.

Mr. BOWDLE. When do you understand that the women, if this Constitution should carry, would be qualified voters? Would it be before that election or after?

Mr. RICHARDS. I understand that they are qualified voters to vote on the acceptance or rejection of the Constitution, and that they are qualified voters to vote at all State elections if the Constitution should be adopted. That is my understanding of it. Now, referring to the suggestion of Mr. Button, I desire to say that there is no conflict between sections 2 and 4 on this subject. Section 2, in the beginning of the section, provides the qualifications for electors to vote for the delegates to this Convention. Section 2, in the latter part of the section, provides that those persons shall vote at this election.

The CHAIRMAN. The gentleman's time has expired.

Mr. IVINS. Mr. Chairman, I am not a lawyer, but I just want to say that I am opposed to this whole scheme. I do not believe it was ever contemplated in this Enabling Act. I do not think it is good law, and I do not see how anybody can construe the wording of that fourth section to have such an application. It says, "at which election the qualified voters of said proposed State shall vote." Now, it does not say the proposed voters of the State at all, and that is all these women are. You cannot make anything else out of it, and I am opposed to this whole idea from beginning to end.

Mr. VARIAN. Mr. Chairman, I regret very much that upon the former occasion I inadvertently used a word which, if I meant it, would not have been courteous to my friend from Salt Lake (Mr. Richards). In using that

word, absurd, it was done thoughtlessly and with no intention, of course, to make any application to anything that might be promulgated by my friend. I want to call the attention of the Convention to the fact that in my judgment the legal arguments or statements presented by the gentlemen who are not members of this Convention, leave out of consideration a fundamental rule of statutory interpretation and construction. It predicates their whole conclusion upon single, and as it were, isolated language, found in one particular section of this Enabling Act. Congress was dealing with a proposition which might or might not be affirmed when it enacted this Enabling Act. It uses the words "proposed State" six times in this Enabling Act. In each connection, possibly with the exception of the particular section relied upon by Mr. Richards, it is manifest that it is speaking of the proposed State in the sense of dealing with the people inhabiting a well defined and bounded area of country, who propose to form a State. For instance, in section 3 it is required that the delegates of the Convention shall, after organization, declare on behalf of the people of said proposed State that they adopt the Constitution, etc. In paragraph 2 of the same section, it says that the people inhabiting said proposed State do agree and declare in accordance with the requirements of the Enabling Act. Passing the third section for the present, in the fourth section, it provides that if the Constitution and government of the said State are republican in form, and if all the provisions of this act have been complied with, etc., the President shall issue his proclamation and thereupon the proposed State of Utah shall be deemed admitted; and finally, in section 19 it provides that the governor and secretary of state of the proposed State shall certify the election of the senators and representatives in the manner required by law, and when such

State is admitted into the Union as provided in this act, the senators and representatives shall be entitled to be admitted. Now, bear in mind, Mr. Chairman, that no legislative power, other than that that may be necessary to affect the future State, after it shall have been admitted, is conferred by this Enabling Act.

All matters of legislation relative to the forming of this Constitution and its adoption and its approval by the President of the United States are retained by and executed in this country by Congress. It would be a matter of legislation, pure and simple, not with reference to the future condition of the new State, but with reference to existing conditions now, if you could interpolate into this Enabling Act language which would authorize the conclusion that we would have a right to create an additional class of voters not existing at the time of the passage of the act, and submit to them the ratification of the Constitution. You might just as well say that you could, by enabling aliens to vote under the language of this Enabling Act, submit the ratification of the Constitution to their choice. Does any gentleman contend that you could do that? You can prescribe when you shall become a State government—that persons who are not naturalized may vote. You could even prescribe that aliens might vote as well as those who had taken out their first papers. That is a matter of governmental state policy, pure and simple, with which the government of the United States has nothing to do, except in so far as it may affect the election of representatives in Congress. Now, in section 2, Congress is dealing with the question of qualifications of voters, and I call the attention of my friend, able and distinguished lawyer as he is, to that rule of construction, which sheds light on this. They are dealing with the qualifications of voters. First, they say that all male citizens over the age of 21 years, who

have resided in the Territory for one year, etc., are authorized to vote for delegates to the Constitutional Convention. Following that, they say that persons possessing the qualifications entitling them to vote for delegates under this Act shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as said Convention may prescribe, not in conflict with this Act. Now, if there is not a distinct determination of the subject matter, I am unable to appreciate the force of language. They are dealing there with the qualification of voters, not how they shall vote, but as to who shall vote. They have entered upon that field of legislative discretion and have disposed of it. Now, we come to the language relied upon by my friend and the gentlemen who agree with him, but you will observe, gentlemen, that they are not dealing now with the qualification of voters. They are dealing with the manner of voting, as to how the vote shall be taken and adopted. They say it shall be submitted upon a certain day, at which election (now mark this) “the qualified voters of said proposed State shall vote directly for or against;” that is, Congress is now telling the people how they shall vote, for or against the Constitution, for or against an amendment or at least a separate article that may be submitted in conjunction with it. So that, they have prescribed that the vote shall be taken clearly and distinctly without any encumbering with other matter of any kind—no connection with the election for officers or anything of that kind.

So, you see, that in these two separate propositions, you first have a clear and distinct declaration by Congress, which is dealing with the qualifications of voters, and in the first instance as to who they shall be and as to what their qualifications shall be, and second, as to how these persons duly qualified shall vote for or against the Constitution. Now, it seems to me, with all

deference to these gentlemen, taking into consideration the situation under which this Enabling Act was passed, taking into consideration that woman suffrage is the exception and not the rule, that it is in violation of the common parliamentary electoral law, that it depends entirely upon legislation to extend the franchise to that class of persons, and you find Congress legislating, as it has always done, to the exclusion of this class of voters, particular to confine the right to vote for delegates to the Constitutional Convention, to male citizens of the requisite age and residence; particular to mention the fact that the same qualifications shall be those which shall entitle the persons to vote for the ratification of the Constitution. Bear in mind this rule of construction which must shed light upon every occasion when interpretation of statutory language is necessary, as to the purpose and object of the language. What is the Legislature dealing with? What particular subject matter at the time the language is given expression to was under consideration? To repeat, first, Congress has defined the qualification of voters, dealing with that subject, and of necessity has excluded it from our consideration. Second, it is dealing with the subject as to how the vote shall be taken upon the ratification of this Constitution, necessarily excluding that from our consideration. It seems to me that the construction sought here is far fetched and is not borne out by the Enabling Act. But passing that, if I am right in the first premise, then I lay down that no legislative authority for the present is given to this Constitutional Convention. What can we gain by putting anything of the kind into this Constitution? Of necessity it will have to depend upon the construction put upon this Enabling Act by those, first, who are entrusted with the administration of election laws primarily here in this Territory—

the Utah Commission. And second and lastly by the President of the United States, who shall be called upon to determine, first, whether the provisions of this Enabling Act have been carried out and performed. Second, whether the Constitution proposed is republican in form and not in conflict with the Constitution of the United States. The first board of authority which shall have the power to pass upon this question may be enabled to invoke the aid of the courts to determine the question for them, but I submit that even the courts themselves here in this Territory would not probably bind the President of the United States. It would have to be an opinion by the higher federal court. But, however that may be, by putting it in and taking a vote as suggested, you certainly risk your Constitution. It is suggested by my friend on the other side, if you leave it out, you risk your Constitution. That may be, but I do not view it precisely in that light. In one sense that would be true, and in that view it might occur to gentlemen that it would be advisable to take a separate election in accordance with the view proposed by Mr. Richards, as I understand it.

Mr. RICHARDS. If you will vote separate.

Mr. VARIAN. If you will vote separate. One objection to that, of course, would be the expense attached to it. That, however, might not be sufficient to warrant the Convention in taking an antagonistic position on that subject. I had not considered it from that standpoint, only from the standpoint as first proposed here, as to what the construction of this act was, and ought to be, and while I have not procured a petition or letter of advice, nor have I procured credentials upon this subject from very many members of the bar, I happen to know that the opinion among some of the most distinguished members of the bar in Utah Territory is in accordance with the views that I

have expressed here. I certainly hope that the motion of Mr. Maloney will not prevail unless the design is to take every risk possible.

Mr. RICHARDS. Is it not a fact that if the construction that Judge Sutherland and others suggest is the correct one, and the female vote was not taken, that the Constitution would not be adopted—that is, assuming that the President took that view of it?

Mr. VARIAN. I am inclined to think there would be great force in that.

Mr. RICHARDS. Let me ask this question, and in asking it, I desire, as I am sure every member of this Convention desires, to do what is right, and avoid a failure of our work. I believe the gentlemen that I am addressing will give me credit for believing that. Now, if a provision was made in the Constitution for taking the vote of all the proposed electors, and keeping the female vote separate, how could that possibly injure or tend to defeat the Constitution, or could it?

Mr. VARIAN. I don't believe it could.

Mr. RICHARDS. Well, then, if as you say, the failure to have them vote would be a fatal error if they have a right to vote, and letting them vote separately would not injure the matter if they had no right to vote—if it should be so ultimately determined, then, does not prudence dictate to us that we should provide for that?

Mr. VARIAN. I admit there is great force in that. I was principally directing my argument to the first amendment.

Mr. RICHARDS. I put it upon that ground, Mr. Varian. I do not put it on the ground that my opinion is better than yours or anybody's else, but I do say that on the ground of prudence, this Convention ought to adopt a course that certainly could not be construed to be illegal, and could not result in the failure of this Constitution,

because it had not been properly submitted.

Mr. EICHNOR. Mr. Chairman, in 1889, Congress passed the enabling act to permit the territories of North Dakota, South Dakota, Montana and Washington to frame constitutions. Now, in those territories the men that were entitled to vote for members of the legislature, or as the laws of the state provided for, could vote for delegates to the constitutional convention. When it came to the ratification or rejection of the constitution, you will find that the language of that enabling act is identical almost with the language in the Enabling Act for Utah. In the state of Washington they submitted a separate proposition. They submitted the question of woman's suffrage as a separate article, and I say to you, gentlemen of the committee, whether a man is opposed to woman's suffrage, or whether he is favor of woman's suffrage, it is not this question. I will tell you, gentlemen, in the state of Washington they were not allowed to vote. The constitution was adopted and woman's suffrage was rejected, and Grover Cleveland proclaimed Washington as a state. Now, there is a precedent for us to follow. Some of you, gentlemen, have smiled because I have referred frequently to Washington, but there is a precedent where the language of the enabling act is identical with ours, where a proposition was submitted separately and the women were not allowed to vote on the adoption or rejection of the constitution. They were not allowed to vote on the article submitted separately, and Grover Cleveland proclaimed the territory of Washington as the state of Washington.

Mr. THURMAN. Mr. Chairman and gentlemen, although I did not intend speaking on this question this morning—in fact, did not know whether it would be presented at all or not to this Convention, yet it is a question to which I have given some thought and consid-

eration. Early in this Convention, I was asked by a gentleman on this floor my opinion in relation to the right of women to vote, provided we qualified them to vote under the Constitution. I unhesitatingly gave it as my opinion that they would have no right to vote at the first election. I cannot say that my mind is entirely free from doubt yet as to my position, but I have been compelled to yield my convictions to a great extent as to the law on this question, from the reading of the Enabling Act itself. I do not see that the question raised by my young friend from Salt Lake, Mr. Echnor, as to the Washington constitution, sheds any light at all upon this question here.

Mr. EICHNOR. May I ask Mr. Thurman a question?

Mr. THURMAN. Yes sir; if I misunderstand you, I want to be put right.

Mr. EICHNOR. Were you present when I asked Mr. Richards several questions.

Mr. THURMAN. Yes, sir.

Mr. EICHNOR. Did not I ask him if the proposition was submitted separately whether he would still claim the women had the right to vote?

Mr. THURMAN. Yes, sir.

Mr. EICHNOR. And his answer was in the affirmative. And in Washington the question of woman's suffrage was submitted separately and they were not allowed to vote, and the constitution was affirmed.

Mr. THURMAN. He might answer you affirmatively on the proposition, and I may answer you negatively. I am making this speech now for myself. I will agree with the gentleman from Salt Lake, Mr. Richards, as far as we do agree, and where we disagree, I think I will state it succinctly. As I was saying, the separate submission proposed by the state of Washington might well be limited to those who were unquestionably qualified to vote under the constitution, and it would at least take a provision in the Washing-

ton constitution expressly providing that the women should vote. Now, I will ask how is that?

Mr. EICHNOR. If Mr. Richards is right here, they should have been permitted to vote in the of Washington.

Mr. THURMAN. I am asking for information, not for the purpose of provoking a running discussion. You have examined it. Did the constitutional convention provide in the constitution that the women might vote on the question of separate submission?

Mr. EICHNOR. No, sir.

Mr. THURMAN. Then of course, they had no right to vote. It was not a part of the constitution until it became so by the vote of the people, as a separate article, but here we undertake to say in this Constitution that political distinctions are abolished, both as to suffrage and as to the right to hold office. We place women in the Constitution upon an absolute equality with men in those respects, and there is nowhere in the Constitution, excepting this proposition that we are now considering, where we undertake to make any sort of distinction. The question was asked by the gentleman from Salt Lake, Mr. Squires, as to the political complexion of these gentlemen who had rendered an opinion. If there were four democrats and one republican, or four republicans and one democrat, or if they were evenly divided, I fail to see what the political complexion of those men had to do with the question under consideration, unless we have reached the point at last where this question of woman's suffrage and political rights for women is indeed a party question. I do not understand that we have. If women ever have a right to vote in this State at all, it will be because republicans voted for it and because democrats voted for it, because as far as democrats alone are concerned, if every one of them had voted for it, they never could have given suffrage to woman.

So it is not a party question, and those things ought not to be injected either by inuendo, or otherwise, into this debate. They cloud the judgment of members. They preclude us from giving consideration to this question—that fair consideration and deliberation that ought to be given to it, and so far as I am concerned, I want to keep that thing out of my mind in what little I have to say. I desire now to read the Enabling Act, and I want to say, Mr. Chairman, I am directing my remarks more particularly to this question of a separate submission. On the question of ratifying the Constitution, that seems to me to be the path of safety. Anything else would seem to me to be the reverse. It is true that in the qualification of delegates to this Convention, Congress undertook to say just what those qualifications should be, and limited them to male citizens, residents of the Territory for one year. Now, at the end of that same section, right in connection with the delegates, it says what shall be the qualification of delegates to this Convention. Congress undertook to say to this Convention that those men should not be excluded from the right to vote upon the ratification or adoption of the Constitution, and that is what it means. It did not mean in that section to establish the qualification of the members on the adoption or ratification of the Constitution, but it meant to say to this Convention that whatever may be the qualification that you give to the voters of the proposed State, these men, whom we say are qualified to vote for the delegates to the Convention, shall also have a right to vote on the question of its adoption or rejection. That is the meaning of that section, if I am capable of construing the language at all.

Now, when we come to section 4, there we must look to find who shall vote upon the ratification or adoption. And I want to say, Mr. Chairman and gentlemen of this committee, if it means

what the honorable gentleman from Salt Lake contends for, it is the most curious language that was ever used by an intelligent body of men in order to convey that idea. Why shouldn't they have said this, that in case the Constitution and State government shall be formed, in compliance with the provisions of this act, the Convention forming the same shall provide all ordinances for submitting said Constitution, not to the people of the State, but to the people of the Territory? We are still a Territory and in the same line of thought for its ratification or rejection at an election to be held on the Tuesday next after the first Monday in November, 1895, at which election, the qualified voters—not of the Territory, not of any particular area of land, but the qualified voters of the proposed State. Let me pause one moment, gentlemen, to ask you a question. What is a state? A state is the people, within a given area, in their organized capacity. If the state is the people in their organized capacity, the proposed State then will be that which we propose to be the State in its organized capacity. What is that? You have got to look into our Constitution to see what the organized capacity of the people will be, and in that the question of suffrage, and who has a right to vote under the State, becomes a very important feature. Can you imagine that Congress used such language as that, if it meant what gentlemen on the other side contend for? How easy it would be to say "the qualified voters of the Territory, except as otherwise provided in this act?" Combine that with the closing words of section 2, and you will get all the voters qualified to vote in the State.

Mr. CANNON. Would the qualified voters of the Territory be the same as those that were allowed to vote for the delegates to this Convention?

Mr. THURMAN. I was just explaining that. I say that, combined with what Congress has said on the subject,

would make up the legal voters. But they did not do that. They say, "the qualified voters of the proposed State." My friend, who sits at my right here, comments upon that language by saying it does not say the proposed voters of the State but the qualified voters of the proposed State. I ask you again, what is the proposed State of Utah. Is it that section of country bounded by the lines mentioned here in our article on boundaries? Is that the State? If so, we have had a State government all the time. We have had a State ever since we came here, if that is a State. It does not mean that, gentlemen, and you know it. It means that area of country and the people that inhabit it in its organized capacity as a sovereignty, limited, subjected only to the Constitution of the United States, as a sovereign power. When we consider the qualified voters of the proposed State in that light and strip from our minds that the word state there simply means a certain area of country bounded by certain lines, we then get down to what Congress evidently meant. What is there wrong, gentlemen, in those whom we say are qualified to vote for State officers through all coming time voting at all public elections? What is there wrong in principle in saying that they also shall vote rather than that we shall have a State? Otherwise you are forcing upon them conditions which probably they do not want. You are forcing them into line here and giving them qualifications to do this or that or the other thing in a sovereign capacity, which if they had a voice they would probably say, "we do not want that." In fact, it has been contended here by some gentlemen that the women do not want to vote. If I was in that position, and was actuated by selfish motives, and took that view, I would say, "let them vote. Kill the Constitution." But that thought does not enter my mind as to how they are going to vote, but the question is have they the right? And that

is what we are here seeking to determine. I say it is open to doubt. I say the only safe proposition, as far as this question is concerned, is to provide, even if there is an expense attached, for a separate vote of the female voters. If it should be determined they are not qualified to vote, no harm is done. If it should be determined that they are qualified to vote, their vote can be added and counted and canvassed with the rest of the vote or in addition thereto, and it will be absolute safety. I take it, that no gentleman, after all the work we have done here, wants in either case to see that work thrown away and become of no effect, because we have not followed the provisions of the Enabling Act.

Mr. ROBERTS. Mr. Chairman, I would be opposed to the amendment offered by the gentleman from Weber (Mr. Maloney), in the first place, because I think it would come in conflict with the parts of the Constitution preceding that, which we have already amended. In line 8, the proviso begins, that all male citizens over the age of 21 years who have resided in this Territory one year next prior to such election, and are qualified voters, are hereby authorized to vote for or against the adoption of this Constitution; and the amendment by the gentleman from Weber would make it say, "all electors qualified to vote under this Constitution may vote." I do not know whether the amendment was drawn with a view of having a separate vote cast by the women of the Territory or not, but if it was not so drawn, then it renders this section, as I look at it, incongruous, and it ought not to be adopted, unless we contemplate striking out the first part of that proviso. The question proposed this morning, as I understand it, may be viewed in two aspects. It seems that there are some gentlemen who believe that the women of this proposed new State may vote for the adoption of the Constitution itself. Others, as I under-

stand it, hold that they cannot vote for the Constitution itself, but they may vote for the State officers to be elected. I think, sir, that the first proposition is a very unusual one. I remember in the debates on the question of granting suffrage to women, that I made the statement that such a thing as permitting those whom we propose to enfranchise voting upon the question whether they should be enfranchised or not, was an unheard of proceeding, at least either in England or in the United States; that no precedent of the kind could be cited, and I hold to the opinion that I then expressed that I do not believe it is a proper thing to submit this to the women of this proposed new State as to whether they shall be enfranchised or not. So that I am against that part of the proposition, and I am equally against the subsequent proposition, to permit them to vote for the State officers. Now, sir, it needs, in my opinion, no legal acumen to carry one to that conclusion. It seems to me that a very simple process of reasoning, without any straining or effort whatever, carries one to the conclusion that they ought not to vote, and cannot rightfully vote at this first election, even for State officers, and that line of reasoning is simply this, the women of the proposed new State are not enfranchised until you adopt this Constitution, and I think gentlemen will not contend that unenfranchised citizens are qualified to vote. Now, sir, that is the way this proposition presents itself to me. The contention here, and as I must think, the evidently strained efforts to permit this class of voters who are to-day unenfranchised and will remain unenfranchised until this Constitution is adopted, and until the proclamation of the President of the United States shall complete our work by permitting the State to enter the Union, is an absurdity upon its face—to contend that unenfranchised factors of the State shall vote. Of course, it

may be said that my prejudices against woman's suffrage would perhaps lead me to take this view of the case, and, of course, it is quite possible that one may be unconsciously influenced by his prejudices, and I am willing to admit that, looking upon the enfranchisement of women as an evil, I would like to postpone that coming evil just as long as I can. I think we will have enough of it when it comes; that the time will come when we will all be heartily sick of it, and I therefore am in favor of postponing it.

Mr. BOWDLE. Mr. Chairman, if I understand the proposition, it is this, that the women shall be allowed to vote separately upon whether they will adopt this Constitution or not. When that vote is taken and canvassed, if there are enough men that have voted to adopt the Constitution, we do not care anything about the women. That, I understand, is Mr. Richards's position; that if the vote by the male portion of this Territory shall be sufficient to adopt the Constitution, the others will be left out, but if there are not enough men to vote to ratify the Constitution, then we will as a hazard, peradventure, try the other and see if Grover will let us through on that line. That is, as I understand, the proposition exactly. Now, gentlemen, if I wanted to defeat this Constitution, I would take that tack exactly, because if there are anything like enough men to defeat it, and you put it in that shape that number will increase, and if it is safe now in the hands of the men, it will be safer in the hands of the men to let it alone and not use that uncertain element—that contingent vote that you propose here to use, because if there has been some feeling worked up in this Territory, on the question, and it is a recognized fact that there is an antagonism now being waged against woman's suffrage here, that will still affect the vote on the Constitution. If you permit, by this schedule, the women to vote on the ratifica-

tion of the Constitution, you will increase that antagonism, and you will then be compelled to depend for the ratification of the Constitution upon the women, and if the powers that be shall say that that is not constitutional, I believe your Constitution will be gone. I am sorry that the gentlemen themselves have lost confidence in themselves and now they want the women to come to the rescue and help them through. I say, gentlemen, let that thing stand just as it is, just as the section now stands with the amendments that have already been adopted, and I believe the Constitution will be safe and that it will be ratified, and I doubt if it will be if you put that in.

Mr. MURDOCK (Beaver). Mr. Chairman, as it was remarked here this morning, I am neither a lawyer nor a son of a lawyer, but it seems to me this is a very plain proposition. In the second section of the Enabling Act, it says what kind of voters shall vote. That is, every male citizen. Then, they go to the fourth section and there it says every qualified voter may vote. Now, the question is very comprehensive to me, and I presume is to some of the members if not all, if qualified voters shall vote, when are the women qualified voters? When this Constitution makes them so, and the people of the Territory ratify the labors of this Convention and the President has had it submitted to him and he also ratifies it. Then they become legal voters and not till then, according to my judgment. While I am quite in favor of equal suffrage, yet I think it would be very unreasonable to say that they should vote upon their own acts, just as an individual might if he had a great point to gain, that he should have the privilege also to vote upon it, that those in favor of him might have the advantage of his vote also. And so I regard it in this matter, that the women portion are not legal voters, are not com-

petent voters, consequently I should be opposed to that amendment.

Mr. GOODWIN. I would like to ask the chairman and the other eminent lawyers on the floor, a question. Suppose we should pass this and the registration should begin and some woman should apply to have her name registered and she should be refused, would it be possible for her to make a case in the courts, to go behind our work on the Enabling Act, and claim her right to vote, and get the decision from the courts that way? I am in doubt myself. I would like to have Mr. Richards, Mr. Thurman, Mr. Varian, or some of the lawyers here give an opinion on that point.

Mr. RALEIGH. Mr. Chairman, I trust this amendment will not prevail, for the reason that I don't believe it would place us in keeping with the provisions of the Enabling Act. Now, it may be presumption for me to speak on this question before this Convention, not being a practical lawyer, but I will state for the comfort of the gentlemen on this floor, that I have been studying the constitutional law for almost forty years, and when I read several weeks ago, this Enabling Act, I came to the conclusion that it would not allow those whom we have made eligible to vote on the Constitution, to vote; that is, that we have made eligible to vote and have placed it in our Constitution—it would not allow them to vote at that time, but after that, of course, if the Constitution is ratified, they will be eligible to vote on any question. Now, I don't know why it is that men will contend here on this floor that they are eligible to vote. I have never discovered any language at all that they have the right to vote at that time, and hence I hope the amendment will not prevail.

Mr. MALONEY. Mr. Chairman, I believe one thing before the house now is the consideration of the amendment proposed by myself, which is to insert

the words read. "All electors qualified to vote under this Constitution may vote." Now, Mr. Chairman, the object is to allow the women of this Territory who have been enfranchised by the provisions of this section, to vote for State officers at the coming election, on the first Tuesday after the first Monday in November, 1895. I never knew that there was any diversity of opinion, even among the distinguished luminaries of the Salt Lake bar, on this question. I thought it was unanimously agreed, that if we provided by ordinance in this Constitution for the women of the Territory to vote for State officers, that they could vote for such State officers, but I understood there was a diversity of opinion with regard to their qualification to vote for or against the Constitution. My position, Mr. Chairman, is that the women of the Territory cannot, under the Enabling Act, vote for or against the ratification of this Constitution. And it strikes me the Enabling Act is clear. The act of Congress, section 2, provides that all male citizens over the age of 21 years, who have resided in the Territory for one year next prior to the election, may vote for delegates to this Convention. The latter part of the section provides that persons possessing the qualifications entitling them to vote for delegates shall be entitled to vote on the ratification or rejection of the Constitution, under such rules and regulations as the Convention may prescribe, not in conflict with this act. Now, I take it for granted, that that language is clear that the ladies cannot vote for the rejection or adoption of this Constitution, and there is no provision in this Enabling Act saying that we, as delegates to this Constitutional Convention, may provide that the women can vote. The women may vote for State officers at the coming election if we so provide by this schedule, or if it is provided in the Enabling Act.

Mr. ROBERTS. Are the women of this State enfranchised until after the adoption of this Constitution?

Mr. MALONEY. I will answer that in this way. We have authority under the Enabling Act to provide with regard to the election of State officers at the coming November election. We have a right to say who shall vote for or against State officers. I agree with Mr. Roberts that all of these acts of Congress had no reference to suffrage in Utah.

Beginning in 1887, the Tucker-Edmunds bill took away suffrage from the women in Utah. That has not yet been restored, except this Enabling Act provides that we may by schedule or ordinance say who shall vote for State officers, to be elected in 1895, but we have not been authorized to say that women may vote for or against the ratification of this Constitution. So far as that is concerned, I agree with my friend, the delegate from Davis County. In other words, it is a question like a man being dead voting to make himself alive, or somebody out here in charge of the warden voting to get himself out. I agree with the gentleman that far, but I do contend that under this Enabling Act we have a right to say whether or not the women, as we have provided in this Constitution, may vote for State officers. And if we shall, in our Constitution, provide that under the Enabling Act, we have a perfect right to say that the women may vote for State officers at the coming election.

Mr. ROBERTS. I think the gentleman did not understand my question. My question simply was, are the women of this Territory enfranchised before the adoption of this Constitution, or can they be?

Mr. MALONEY. No, sir; but I do say that we can, under the Enabling Act, by ordinance, permit them to vote at the coming election for State officers. They are not enfranchised in so far as

the adoption or rejection of this Constitution is concerned. I make a distinction there, and I think the Enabling Act authorizes and recognizes a distinction. I am not willing to put anything in this Constitution by which it could be endangered; above all things in this world, I think I do desire statehood for Utah. I would sacrifice woman's suffrage for statehood, because while I am for woman's suffrage, and always have been, we could postpone that rather than defer statehood, as we could get it as soon as the Legislature met. I have been from the first for woman's suffrage. It is true I was willing to delay this petition if they saw proper to do so, but whenever the question came on the final vote, I was determined that they should vote so far as my vote went, and that they might have all the rights that men are entitled to, because they were equally entitled to them.

Mr. VARIAN. I desire to ask the gentleman from Weber two questions. First, entertaining the views that he does concerning the main proposition, why he offered that amendment, which in terms provides that women shall vote upon the adoption or rejection of the Constitution?

Mr. MALONEY. I did not offer any amendment, Mr. Chairman, authorizing the women of the Territory to vote for or against the adoption of the Constitution. It provides for their voting for State officers in the coming election, and no farther.

Mr. VARIAN. Then I misunderstood the effect of it.

Mr. MALONEY. The amendment was drawn up very hurriedly because I came in after the article came up, and if it is not distinctly worded, I will ask to amend it. The object I had in mind was that they might be allowed to vote at the coming election for State officers.

The CHAIRMAN. The chair is of the opinion that the amendment would permit women to vote both for the Constitution and for the State officers.

Mr. MALONEY. Then, I will ask that it be made to read so that they will vote for State officers only.

Mr. VARIAN. That is what drew out my remarks heretofore made. I want to ask the gentleman a second question. I presume the gentleman will admit, by way of a premise, that this matter of enfranchising a class of persons is a purely legislative matter. I want him to point out in this Enabling Act where that grant of authority and power is conferred upon this Constitutional Convention.

Mr. MALONEY. I think it is section 4, if I am not mistaken.

Mr. THURMAN. If your position is right, clearly they have a right to vote for the Constitution. You have been contending here that they have no right to vote for or against the Constitution, but may vote for State officers.

Mr. MALONEY. I did not understand that there was ever any trouble or disagreement among constitution makers with regard to that.

Mr. VARIAN. Well, there is.

Mr. MALONEY. But I do hold that they have a right to vote for State officers.

Mr. RICHARDS. Is it not a fact that if the construction contended for by Judge Sutherland, Judge Henderson, and others, is correct, a failure on the part of this Convention to provide for submitting this Constitution to the vote of all the electors of the proposed State might result in the failure of the Constitution; that is, that it might be held that the election was illegal, because it had not been submitted to all the legal electors?

Mr. MALONEY. If I understand your question, it is that if they were permitted to vote for or against the Constitution, it might endanger statehood?

Mr. RICHARDS. No, sir; if the position taken by Judge Sutherland, Judge Henderson, and the other gentlemen who signed this opinion that I read, is correct, and the women have a

right to vote on the Constitution and for State officers, is it not a fact that if the Constitution did not afford them that right and the vote was taken only of the male electors, it might be said that the Constitution had not been properly submitted, and therefore, that it had not been properly ratified?

Mr. MALONEY. That could be avoided by your proposition having the vote counted separately.

Mr. RICHARDS. Exactly, but isn't that a fact that it might be so?

Mr. MALONEY. It might be.

Mr. RICHARDS. If that be so, what is the objection to having a separate submission of this matter and having the women vote?

Mr. MALONEY. I am not objecting to your separate submission article. Your amendment is not before the house, and I am not objecting to the question of taking the women's vote separately.

Mr. RICHARDS. But it is involved in this question in this way, that I propose as an amendment to your amendment—the insertion of these words before the vote for the Constitution, so that it will apply to voting on the Constitution as well as for State officers.

Mr. MALONEY. It strikes me that if the women of this Territory are permitted to vote for or against the Constitution, statehood will be endangered, but I do not think there is any question but what if we provide that they may vote for State officers at the coming election—

Mr. RICHARDS. Will you answer me how statehood will be endangered if they vote separately on this proposition?

Mr. MALONEY. I do not say that if they vote separately it will be endangered. I did not understand that that question was before the house at all. I understood Mr. Richards read what he moved as an amendment. I say they cannot vote for or against

the Constitution, and that if we permit them to vote, not taking the vote separately, but if they vote for or against this Constitution, with the male voters of this Territory, it will endanger statehood; but I say if there is an amendment that the women of the Territory may vote separately, I have no objection to it. Then, it will be easily eliminated. We will know just exactly what the male vote of the State was.

Mr. VARIAN. I would like the gentleman to answer my question—to point out in the Enabling Act where the authority is given to this Convention to legislate a class of voters into existence to vote on anything.

Mr. MALONEY. By our having the authority in this Enabling Act to provide by the schedule for the voters of this proposed State.

Mr. VARIAN. Will the gentleman point it out?

Mr. MALONEY. That is exactly where I place it. I say we have the authority under the Enabling Act to say by schedule or ordinance who shall vote for State officers at the coming election.

Mr. BARNES. Mr. Chairman and gentlemen, I am not a lawyer nor the son of a lawyer, as my distinguished friend from Weber remarked, and shall not attempt to argue this matter from a legal standpoint at all. There is a matter, however, of right involved here that I think we ought not to lose sight of. The question presents itself to me in this light: Do the women of Utah to-day hold the right to vote? I say no. They will not hold that right until after the Constitution is ratified. It is clearly, then, I think, out of order for us to contemplate giving them the right to vote until after the ratification of the Constitution. That is my position exactly.

Mr. THORESON. What right have the men of the Territory to vote for State officers before the Constitution is adopted?

Mr. BARNES. They hold that right, as I understand it, by the Enabling Act. The Enabling Act clearly says who shall vote.

Mr. JAMES. Mr. Chairman, I do not propose to discuss this question from its legal standpoint. It has been ably handled by the legal gentlemen upon this floor, but I do want to say that I believe that the adoption of such a provision is purely revolutionary, and I think it endangers our Constitution, and there might be a great deal said to this Convention upon this subject if it was not evident that the temper of the Convention is such that it will not adopt any such amendment as has been offered here on the floor. But I wish to say a word or two regarding the convention that was held in Virginia in 1829. We had some remarks upon this absolute proposition from Mr. John Randolph and Mr. Nicholas and others. It was contended that conceding the right of the general assembly, by its second act, to provide for the calling and organization of the convention, it transcended its power in authorizing that body to submit the result of its labors to anybody but the freeholders themselves. Thus Mr. Randolph said:

By whose authority did the legislature pass the act under which we are assembled here? By the authority of their constituents. And who are their constituents? The freeholders of the commonwealth. By whose authority do we sit here? Whence is our power? From our constituents. And who are our constituents? The same answer must be given—the freeholders of the commonwealth. Now, the freeholders of the commonwealth having given their sanction to the act of the legislature—I refer to the first as well as the second act on the subject of a convention, and deputed us here to propose amendments to the old constitution, or the draft of a new one, to whom, I ask, in the nature of things, did the freeholders suppose the new constitution was to be submitted for adoption or rejection? Must it not have been to that original authority, to that source and fountain from whence is derived all our authority as a convention? I mean to themselves. Let me suppose a case. A ma-

jority of the freeholders of Virginia, being the body politic of Virginia, have consented that a convention shall assemble for the purpose of devising amendments to the existing constitution or proposing a new constitution in its stead. Now, sir, the freeholders of Virginia have not yet decided—though they have decided that amendments shall be submitted to them—that, with worse than the stupidity of Esau, they shall be deprived of their birthright. The convention are proposing that the former limits of the right of suffrage shall be extended, I will say, ad infinitum. Who is to decide on this question? Those to whom we propose to extend the right? Unquestionably, no; no more than the people of Ohio or Pennsylvania have a right to decide it. They have no right whatever; they have not a shadow of a right. Sir, it is plain as any proposition in Euclid—sir, it is plainer; it is self-evident that no other power on earth, save that power from which this convention derives all its authority to propose any constitution at all, can rightfully pronounce on the validity of our acts, or decide upon the acceptance or rejection of such constitution as we shall make.

Mr. Corfman was here called to the chair.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the Convention, many of the statements which have been made may be admitted, and at the same time it will not change any phase of the question. We sometimes forget the power and authority which a constitutional convention possesses. As I understand it, section 2 of the Enabling Act undertook to enfranchise a class of people in this Territory who had, prior to that time, been disfranchised; that is to say, those who lived in violation of the laws of the United States. In the latter part of the same section, Congress undertook to say that that class of people, whom it enfranchised, should not be disfranchised when it came to voting upon the ratification of the Constitution. So far as section four is concerned, respecting the right of the proposed voters of the State to vote upon the ratification of the Constitution, I think that it is in some doubt, and I shall not undertake to decide that question now. But I do mean to say

that the rule of construction with respect to a matter of this kind is this, that where the authority which calls a constitutional convention together, whether it be an Enabling Act passed by Congress, or whether it be a legislative enactment for the revision of a constitution, or where there is no expressed limitation upon the right of the convention to prescribe the qualification of voters, that it is the absolute and unqualified and inherent right to bring in a new class of voters and permit them to vote upon the ratification of that instrument. That is the rule of construction. We stand here now prescribed only by the Enabling Act passed by Congress. Section 4 limits this Convention with respect to the class of voters who shall vote for the adoption of the Constitution; then we cannot go beyond it. If it does not, we then have the power in this body to prescribe the qualification of electors. Is there anything in the instrument, gentlemen, which limits this body? That is the inquiry to be made. If there be, then we cannot go beyond it. I doubt seriously whether there is anything intended in this instrument to limit this body on the question as to who shall vote for the ratification of that Constitution, but the remedy which has been offered upon that question is fair. If women have not the right to vote upon the ratification of the Constitution, then by putting their votes in a separate box, no harm can possibly result. But gentlemen, there is another question, about which I believe there can be no doubt, and that is, the right of women to vote for State officers and members of the Legislature. I have yet failed to hear any lawyer doubt or express at least a doubt upon that proposition. A constitutional convention, in its very nature, is revolutionary. It may be a peaceable revolution, changing from one form of government to another, but in the absence of any restriction, it has the right to form such government

as it pleases. It has the right to prescribe the qualification of the electors of the political subdivision. It has the right to say who shall be its officers, who shall administer its affairs, and no constitutional lawyer will question this proposition. Revolutionary? Why, of course. Why should not it be? It may be by force of arms. It may be peaceful. We are sitting here now as a peaceable revolutionary body, under authority of the act of Congress to form a state government. Anything which does not restrict us, we have the power to do, and we are supreme in the exercise of that power. The gentleman from Davis County has remarked that it is a strange thing—an anomalous thing, that a class of voters who are disfranchised should be permitted to vote to enfranchise themselves. Mr. Jameson in his work on constitutional conventions, has laid it down that a constitutional convention, in the absence of any restriction, has the right to disfranchise any class of citizens and it likewise has the right to enfranchise any class of citizens. The particular paragraph read by my friend from Salt Lake is only the expression of opinion of Mr. Randolph. In the same article people express a contrary opinion, and the author himself says that this power exists to either disfranchise or to enfranchise in the absence of any restriction. I have not had the time to read it. If I had I should take it up and go into it in more detail, but let me remind the gentleman from Davis who lays down his proposition that it is an anomalous thing that that class of people who are not entitled to vote should not have the right to vote upon the question of enfranchising themselves, not even for State officers; why, does he not know that State officers will not be the officers of the new State unless the Constitution itself be adopted? Does he not know that the Convention is creating these officers? We are here in a revolutionary capac-

ity so far as that is concerned. These State officers will never take their seats, will never act under the authority of the State unless the Constitution itself be adopted. In so far as that question of State officers is concerned, this Convention has plenary power over the question as to who shall vote for their election.

The Enabling Act itself provides, in section 19, that the Constitutional Convention may, by ordinance, provide for the election of officers for a full State government, including members of the Legislature and representatives in the 54th Congress, at the time of the election for the ratification or rejection of the Constitution. Further down in the section, it is provided that the State government formed in pursuance of the Constitution, as provided by the Constitutional Convention, shall proceed to exercise all the functions of State officers. Why, gentlemen, there is no doubt, as Mr. Randolph stated in the article—if Mr. James had read a little further; this proposition, is as clear as any principle in Euclid, that this Convention has the absolute and unqualified power to confer upon women the right to vote for State officers. And, gentlemen, I take it that we would be recreant to the duty which we owe that class of voters, whom we have enfranchised in this Constitution, if we were to postpone their right to participate in this matter. There were twelve states where the question came up upon the right of the convention to prescribe qualifications of voters, of classes different from those which were prior to that time enfranchised, and five out of the twelve states, which had no power at all by the Enabling Act, or by the legislative enactment which called the convention, to prescribe qualifications of voters, brought in new classes of voters and they were permitted to vote upon the ratification of the constitution. But I do not go this far, and will not. I do not care. It

does not serve the purpose of the argument, because the proposition to put these votes in a separate box will obviate that difficulty; but will any gentleman upon this floor deny the right of women under this Constitution, if we provide for it by ordinance, or in this schedule, to vote for State officers?

Mr. VARIAN. Yes, I do.

Mr. EVANS (Weber). Mr. Varian says he does. Why, gentlemen, a constitutional convention has the power in itself, when it is legally organized in the absence of any restriction, to say who shall be its State officers. We have the right to say the number. We may cut them down. We may enlarge them. We may say who shall vote for them, and they do not take their offices, they do not exercise any of the functions of their offices until the Constitution itself is adopted. When it is adopted, it is a matter purely with the State and not with the United States or any power higher than that of this Convention. I take it, gentlemen, that it is simply a question of postponing the right of women to vote for an indefinite length of time.

Mr. VARIAN. Mr. Chairman, I want to call the attention of the chair, and the gentleman who has just spoken, to the fact that he, unintentionally, of course, completely reversed and misstated the proposition as to the general rule, as to the increasing of the franchise under circumstances like this. (Reads.)

I want to call attention to the fact that we are not sitting here under the authority of an organized state government to revise, amend, or submit anew a constitution to a people who have already had that privilege. We are here under special authority to do what? To form a Constitution and State government for the proposed State. That is all that you have got to do here. There is no power anywhere in this Enabling Act giving this Convention authority to legislate. Congress has not

yielded one iota of its power and authority in that particular, and this proposed scheme is legislation, pure and simple; legislation that can only be carried out and enacted by supreme authority. We are not supreme in the sense used by Mr. Evans. We are simply supreme in the sense that we are the judges of the qualifications under certain conditions, of the election of our own members, and must form a Constitution to submit to the existing electorate of this commonwealth, and it is to be determined by existing laws as they may be changed by the Enabling Act, and that alone. It is a matter of ordinary law and a matter of ordinary common sense, and I, for one, deny that you have any power to extend the franchise to any class of citizens not now enjoying it.

Mr. ROBERTS. I wish to ask the gentleman if he understood me to question the right of this Convention to enfranchise a body of people not now enfranchised?

Mr. EVANS (Weber). No, sir; I did not.

Mr. ROBERTS. I understood the gentleman to take that position, and I wish to say that it was not my position. My position, Mr. Chairman, is simply this, that you have no right, and this Convention has no right to enfranchise any class of citizens or any class of people in this Territory, but through the Constitution and its adoption. You cannot enfranchise people before the adoption of that Constitution that are not now enfranchised.

Mr. EVANS (Weber). I have been asked these questions and I have not had an opportunity to answer them. In the authority read by Mr. Varian, the position which I took is supported, except that there were seven states instead of five in favor of my proposition.

Mr. VARIAN. No.

Mr. EVANS (Weber). Of course, we cannot go over this carefully. Mr.

Varian and I both looked over this matter before we came into the Convention. The position taken by Mr. Roberts is a very peculiar one. Suppose we were here without any authority at all of law, making a revolutionary Constitution, and had no laws governing us at all, wouldn't that body have the right to prescribe who should be qualified to vote upon the ratification of the Constitution? In other words, suppose all the people were disfranchised; take any revolutionary government, where all the people were disfranchised; they get together by their representatives and form the constitution and then they submit the constitution to a certain class of voters, who in the constitution are qualified to vote. That is the position in which we are now, except where there are restrictions upon us, and I say in this matter of State officers, there are no restrictions, and we are supreme upon that question and have the right to extend the franchise.

Mr. HAMMOND. Mr. Chairman, this is a matter that I have listened to with a great deal of interest and I find from the arguments, as far as I can follow them, that the evidence is certainly in favor of Mr. Maloney's amendment, backed up by able jurists here, such as Dave Evans, Thurman, and a host of others. Now, sir, I am for the voting for this amendment, that the women shall have the right to vote for their officers at the coming election. I believe it is right.

The amendment of Mr. Maloney was rejected.

The amendment of Mr. Goodwin was adopted.

The amendment of Mr. Richards was rejected.

The committee thereupon took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee re-assembled pursuant to adjournment, and resumed consideration of the article entitled schedule.

Section 10 was read.

Mr. RICKS. Mr. Chairman, I notice that in the article on public lands, it provides for the election of three land commissioners. I move as an amendment to this section that we insert in line 7, between "judges" and "and," the words "three land commissioners."

The amendment was agreed to.

Section 11 was read.

Mr. KIMBALL (Weber). Mr. Chairman, I move to strike out, in lines 3 and 4, the words "judges of the district court," and let it apply to all officers.

Mr. RICKS. That would make this board, secretary of state, governor, and treasurer, a board to pass upon their qualifications for office. I hardly think it would be consistent.

The amendment was rejected.

The CHAIRMAN. I would like to suggest to the chairman of the committee, why judges of the supreme court are not also included in that list.

Mr. RICKS. The opinion was that the judges of the supreme court, being State officers, would be passed upon in the regular manner provided by territorial law, but the district judges, being a little different from State officers, being voted for by districts, we thought we would make the provision to cover district judges only.

The CHAIRMAN. Then, would not the judges of the supreme court have the right to pass upon the qualification of their election?

Mr. RICKS. No, sir, I think not; I think it would have to be done by the territorial board.

The CHAIRMAN. Suppose an appeal was taken.

Mr. RICKS. Then, sir, I think it would be handled by the territorial supreme court.

Sections 12, 13, and 14 were read.

Mr. SQUIRES. Mr. Chairman, I notice that section 14 reads, "the provisions of this Constitution shall be in force on the day on which the President shall issue his proclamation," and then

down further it says, that the terms of all officers elected at the first election under the provisions of this Constitution shall commence on the first Monday next succeeding the issuance of the proclamation. There would be a lapse. We would have a State Constitution without any officers, from the time the President issued his proclamation until the next Monday.

Mr. RICKS. There would be only three or four days at the most. I hardly see that there would be any objection to it. The territorial officers hold until they are succeeded by the officers under this Constitution, and if the President should issue his proclamation on Tuesday, there would only be until the next Monday for the territorial officers to hold. I do not think it amounts to much.

Mr. EICHNOR. Of course, when the President issues his proclamation, it would be in force whether we say so or not.

Mr. MALONEY. Mr. Chairman, I have a section which I would like to present as follows:

All officers elected or appointed in the State of Utah shall serve during their respective terms and until their successors shall be elected and qualified.

Mr. RICKS. Mr. Chairman, I do not understand that that is necessary. I think that section 14, that we have just passed, covers that.

Mr. KIMBALL (Weber). That only refers to officers elected at the first election.

Mr. MALONEY. I wish to say to the committee that I presented it at the request of the chairman of the judiciary committee. I do not think the ground is covered by any other provision in the Constitution.

Mr. EICHNOR. Mr. Chairman, I think it is unnecessary. The terms of the officers who are elected are fixed by the Constitution. Those terms which are not fixed by the Constitution, no doubt will be fixed by the Legislature.

It looks to me like lumbering up the schedule.

Mr. RICKS. Mr. Chairman, section 13, it seems to me, covers that. It provides for all officers that are not specially provided for in this Constitution, that the Legislature at its first session shall provide for the election of all officers whose election is not provided for elsewhere in this Constitution. If they meet within three months after the adoption of this Constitution, which they will, the first Monday in January, then it seems to me they will be able to provide by law for all officers not herein provided for.

The section proposed by Mr. Maloney was rejected.

The committee then arose and reported as follows:

Mr. President, your committee of the whole have had under consideration the article on schedule, and beg leave to report that they have considered the same and recommend that it be placed upon the calendar for third reading. They have likewise had under consideration the article on public buildings, and ask a like disposition to be made.

The following communication was read:

To the honorable president, officers, and members of the Constitutional Convention, Gentlemen:

The women of Salt Lake City, who appreciate the labors of the Convention in the interest of the coming State, desire the pleasure of entertaining the delegates and their ladies, including officers of the assembly, at a reception given in their honor at the Templeton hotel in this city on Thursday, May 2nd, from 9 o'clock until 11 in the evening. The reception is tendered the Convention in behalf of the women of Utah.

Very respectfully.

P. S. The invitation is without signature as it was thought possible some members might ask how many yards of names there were attached.

Mr. SQUIRES. Mr. President, I move that the invitation be accepted.

Mr. KIESEL. Mr. President, I move

to amend. I move that the invitation be rejected.

Mr. BARNES. Mr. President, is not there something wrong with regard to the date, Thursday would be the second.

Mr. EVANS (Weber). I would like to inquire whether that communication was sent in before the action of the committee this morning upon the right of women to vote?

The PRESIDENT. I think it came into possession of the house before that.

Mr. SQUIRES. Mr. President, there is one thing about the communication that we ought to ascertain, that is, whether it is genuine or not. There should be certainly some signature here to signify that it means something. You will notice that there is no signature to the communication, and that the date stated is conflicting.

Mr. PRESTON. Mr. Chairman, I think the gentleman's position is right. There is no signature to it. We do not know whether it is a hoax or what it is. I move that it be laid on the table for the present.

The motion to lay on the table was agreed to.

An invitation to witness an exhibition by the Salt Lake fire department was read and accepted.

The Convention then proceeded to the third reading of the article entitled corporations other than municipal.

Sections 1 and 2 were read.

Mr. RICHARDS. Mr. President, I understood that section 2 was stricken out. No, I think I am mistaken. I desire, however, to call attention to one imperfection that occurs to me with reference to this section, and that is in the provision contained in the fourth and fifth lines. I desire to know if the chairman can tell me what that means?

Mr. JAMES. That means simply this, that no set of men will have an opportunity to apply for charters for certain lines of business under the present laws, and pigeonhole them and have them

for sale after the Constitution goes into force.

Mr. RICHARDS. Suppose a franchise has been granted, say the week before the State government went into effect, and that franchise provided that an acceptance should be had within thirty or sixty days, or any other time, would not this provision exclude the exercise of any privileges under that franchise?

Mr. JAMES. I think not.

Mr. RICHARDS. Well, it seems to me that it would.

Mr. JAMES. And I would answer that question further in this, that this provision is almost a universal provision in the constitutions of the states.

Mr. RICHARDS. I heartily approve of it, if it does not reach too far.

Mr. JAMES. And not only that, I will answer the question by asking one. If it would not be better to hold off a franchise for a week than to allow it to be pigeonholed and then held out for sale?

Mr. RICHARDS. That may be true, but I think we can make this Constitution mean just what we do want, when we can find out what we want.

Mr. PRESTON. Mr. President, I move to strike out that section 2.

Mr. KIESEL. Mr. President, I have an amendment; after the word Constitution, in line 5, make it within three months after the adoption of this Constitution; that will be the limit of time.

Mr. JAMES. Mr. President, you might just as well wipe out the whole proposition. It would pass beyond the time the franchise would have to take effect.

The amendment was rejected.

The motion to strike out was rejected. Sections 3, 4, 5, 6, and 7 were read.

Mr. JAMES. Mr. President, section 7, if you will remember, is the section that I called the attention of the Convention to in committee of the whole. I also have had a consultation with the gentleman from Utah County (Mr. Thurman), and asked him as a legal

gentleman to suggest something that would relieve this section from some of its objectionable features, and I would like to ask him if he has anything to offer the Convention?

Mr. THURMAN. I have no amendment prepared, but I will suggest what I think ought to be. "No corporation shall lease." I think that "lease" ought to be stricken out. The reason for that is this, you take a franchise, say like a street railway, and if the corporation had not a right to lease the franchise for a given number of years to raise money upon it without the franchise being liable for debts incurred in the operation or enjoyment of the franchise, it would effectually exclude them from leasing it. I think they ought not to have the power to grant it absolutely.

The PRESIDENT. There is no motion before the house.

Mr. JAMES. Mr. President, I move to strike out the entire section.

Mr. EVANS (Weber). Mr. President, I think that is one of the most important sections in this article, and I believe when the Convention understands its force it will not strike it out. Even the suggestion made by Brother Thurman would be a dangerous suggestion, because it would amount simply to this, that if a corporation can lease its franchises and its property, and thereby relieve itself of individual liability, the persons who might be injured in the operation of the corporation would be without remedy. Now, let me bring to your mind an illustration. Take any of these transcontinental railways that have charters, and let them lease those rights to other companies, and suppose the companies to whom they are leased are impecunious, they have nothing; simply leasing the road and the rolling stock and all the property connected with it. If any liability should occur by reason of the operation of those roads while in the possession of the lessee, there would be no remedy whatever to enforce a judgment which might

be obtained. The lessee would be penniless. The corporation would own the property, it could not be touched, and the result would be that every man who was injured or every man who made a contract with the lessee would be without remedy. That is just exactly what this section is intended to prevent. You know, gentlemen, that if any man were a corporation lawyer, or if any man were engaged in the business of running corporations, he would take advantage of the law, or the absence of any law, in order to relieve the company and its property from liability by leasing its property and franchises to some irresponsible person, and the result would be that the company would be receiving all the benefits, and the person who contracts with the lessee, or who is injured by reason of the operation of the road by the lessee, would be remediless. When you understand this, surely you will not strike this out. It is not right that it should be done. If you do it, you put into the power of corporations to relieve themselves of any law liabilities, or contract liabilities, so far as the lessee is concerned. There is nothing to prevent it at all.

Mr. MALONEY. Mr. President, I trust the section will not be stricken out. It is in the constitution of Washington. Take, for instance, the Oregon Short Line, which is a branch of the Union Pacific system. The Union Pacific is in the hands of a receiver. Where, I ask any gentleman of this Convention, is there a remedy for a man who has contracted with this railway? The people along the line are simply helpless. I am not able to see any good reason for striking this out. The lessee should be held responsible, and when the lessee is operating the road the property should be held responsible. I repeat, Mr. Chairman, I cannot understand why the chairman of the committee leads the assault on the articles which he has reported.

Mr. JAMES. Mr. President, I arise to a question of personal explanation. The gentleman knows very well that I said to him that I was in doubt about that section and wanted it corrected. Mr. Thurman and other gentlemen know that I did not want anything to go into this article that was not for the best interests of the State. I am just as anxious to protect the public against corporations as any other gentleman. Now, I appeal to a gentleman right over there—Mr. Ryan. Do not you know, Mr. Ryan, that that would shut out every leaser of mines in this Territory. Why? Because he goes to Mr. Ryan, or he goes to Mr. Evans, to lease his mine; under this provision he would be unable to lease that mine unless he would be able to put up a large bond. You know it has become a great industry in this Territory. Large numbers of men are engaged in our camps in leasing mines, and in leasing mines they go to the proprietors of those mines and make contracts. Now, what is our system in contracting with those gentlemen in leasing the mines? Our system is this, that we bind them not to run the mine in debt, and the law requires of us—so the legal fraternity advise us, and I have followed their advice, and that we are compelled to put up a notice on our mining claim that the mine is leased, and that they must look to the lessor for their pay. That is our method of proceeding in leasing our property. Now, what would a poor fellow do when he comes to us? Why, we cannot lease it to him under that provision, because it is absolutely held for the debt he contracts, and we cannot get away from it. So am I held for the debt contracted. Now, the result will be the man would be shut out, or he must furnish a large bond before he can secure that property, or he cannot run that property in debt. Now, that is the reason I want this thing amended, and I was in hopes it could be amended

so that franchises could not be alienated and avoid their debts, but so that you could contract to lease that farm, or mine, or anything else you own, and make liable the party who leases the property from you.

Mr. THURMAN. Do you not understand that a mine or a farm or any property of that kind is not a franchise?

Mr. JAMES. Why, my mine is a franchise. I have several of them in the Territory.

Mr. THURMAN. Franchise is a mere right to act—to enjoy a privilege.

Mr. JAMES. I have quite a number of mines that are under corporations.

Mr. EVANS (Weber). Let me ask Mr. James a question. Take the case you put and suppose there is a loss, would not it be as well that the owners of the property would stand the loss as the poor fellow who works for the lessee?

Mr. JAMES. Why, certainly, if the poor fellow was not aware of the fact that he took chances when he went to work for the man on his being able to pay, and we are compelled to do that under the law. We have to put up notices on our claims to notify the poor man that we have leased that mine, and that he must look to the man who leased it for his pay. Now, that is the rule that governs, under this provision, and I am so informed by good attorneys. The poor fellow could be shut out and could not make any lease under this.

Mr. ANDERSON. Mr. President, I do not think that we should strike this section out. I do not think it will work a hardship on the mining industry, and I do not think that any corporation should be relieved from liability on account of a lease. It does not appear just to me. Therefore, I am opposed to striking this out.

Mr. SQUIRES. Mr. President, the gentleman from Utah asked Mr. James a question, which I do not think he

would have asked if he had carefully read this section. Now, I am in this position personally, that I am leasing a mine from an incorporated company, and I have got a two years' lease on that property. If this section is going to operate in a way to prevent one from leasing a mine from a corporation, then I do not want it in there. If any amendment can be made to except mining property from the provisions of this section, I am in favor of that, and in order to test the sense of the Convention, I move to insert after the word property, in the third line, the words, "except mining property."

Mr. RYAN. Mr. President, I cannot see anything wrong with the section. I think it is quite full and complete, and the objection raised by Mr. Squires I do not think is very good, because if he leases a property, he leases it with the obligations against it at the time of the lease, and that could not be disturbed thereafter.

Mr. SQUIRES. I did not lease it with any obligations against it.

Mr. RYAN. And if it were sold, or sold under execution even for a debt contracted afterwards, it would not disturb your right to it at all. I think the section is a good one.

The PRESIDENT. There was no second to Mr. Squires's motion.

Mr. BOWDLE. Mr. President, I am a little bit at a loss to know exactly how to interpret part of this section. I do not just understand what property would be held under a franchise. I do not quite understand the meaning of that, as it has been interpreted here. Now, I move to strike out, commencing with the word "or," in line 2, and ending with the word "thereunder," in line 3; the franchise covers the property, and it seems to me that it relieves the objection that has been made with reference to mining property entirely.

No second.

Mr. MALONEY. Mr. President, the

section does not cover mining property, and was never intended to.

The motion to strike out was rejected.

Section 9 was read.

Mr. BOYER. Mr. President, I would move to amend in line 5, by striking out the word "requiring," and inserting in lieu thereof, the words "first obtained."

Mr. KIMBALL (Salt Lake). Mr. President, I move to amend by inserting after the word "authorities," in the sixth line, the words, "and two-thirds of the people of that district."

I would like to explain one reason I have. The city council has given a franchise to a little railroad that runs out to the Hot Springs and Bountiful. If I understand right, the franchise was granted for a street railroad, electric or cable. In place thereof they put on a locomotive—dummy, smoky arrangement. The people have petitioned against it time and again, and have no redress. We have entered suit against the railroad for injuring our property. We claim that they have depreciated our property fully forty per cent. The people have no say as to giving that franchise. Now, I desire very much that the people should have a vote in these matters, and that if their property is going to be depreciated by a franchise given to a railroad company or any corporation, that they should have something to say about it.

Mr. SQUIRES. I would like to inquire what the gentleman intends to include by the word district?

Mr. KIMBALL (Salt Lake). The district of country or the street on which the railroad or telegraph line is running.

Mr. SQUIRES. Why do you not put it street, then?

Mr. KIMBALL (Salt Lake). It might be in a locality where there is no street. I will accept of the amendment.

Mr. RICHARDS. Mr. President, I desire to suggest to the gentleman who proposes the amendment that I do not

think it covers exactly what he intends, by saying the residents on the street. He means, I guess, the property owners.

Mr. KIMBALL (Salt Lake). The property owners.

Mr. RYAN. Mr. President, as I seconded the motion, I would like to say that I like that principle and I would like to see it applied to all cities and towns. I think the power conferred on city councils, and even county commissioners, is altogether too extensive, and I would like to see that reservation held with the people, that the people should have the right to say whether a franchise was correct or whether the franchise was wanted by the people or not. I like the principle, that is all.

Mr. RALEIGH. Mr. President, I move to amend, by saying a majority of the property holders instead of two-thirds.

Mr. BUTTON. Mr. President, I move to strike out "requiring," in line 5. I do not see what it is there for.

The PRESIDENT. There are two amendments now here.

Mr. KIMBALL (Salt Lake). Mr. President, this was gotten up in a hurry, and if we have not the right wording, I would like to ask to have it suggested. Mr. Squires made a suggestion.

Mr. SQUIRES. My suggestion was that the amendment which Mr. Kimball offered should come at the end of the section; if it comes after "authorities" it interferes with the wording of the section.

Mr. KIMBALL (Salt Lake). I will accept of that.

Mr. MALONEY. Mr. President, supposing that the ordinance of the city or town or incorporated village through which this railroad or telegraph line is proposed to be extended should require that before anything of that sort should be done, two-thirds of the qualified voters, or two-thirds of the property owners, on that street were required; then, if that be true, none of these

amendments are necessary. In other words, the local authorities would not grant it unless the ordinance requiring this had been complied with.

Mr. EVANS (Weber). Mr. President, I hope this amendment will not prevail. The gentleman who offered the amendment understands that this is simply a restriction upon the Legislature to granting any railroad company or telegraph company or telephone company the right to use its streets without the consent of the local authorities of the cities; that is all it means. It is a restriction upon the Legislature, to allowing these grants in the face of the local authorities. Now, the balance of it, so far as the consent of the property owners is concerned, is a mere matter of detail which may very properly be left with the Legislature. Besides all that, I think in principle that it is not right that a majority of the property holders should be consulted respecting a matter of this kind. The streets belong to the public. They do not belong to the adjacent owners of the property; and you put in a provision of this kind into the Constitution, and if some great railway enterprise desires to have depot facilities in some great city, you will find that a majority of the property owners along on the street where they desire to intersect the city will simply hold that company up for a large amount of money. It is an unusual provision, one that I never saw, but it may exist.

Mr. SQUIRES. You say truly that the street does not belong to the property holders along the street, but if any damage comes to the property, they own the property that is damaged, do they not?

Mr. EVANS (Weber). Yes, sir, and they can have a remedy. They can have a remedy for shaking down their buildings. I have examined that question, and have come to that conclusion. We have already provided in this Constitution—I think it is in the bill of rights; in fact I know it is—that private

property shall not be taken or damaged for public use without just compensation. Now, if a railroad company were to go into a street and construct its road so that the jar would shake down the houses, that would be taking private property in such a way as to damage individuals, and under our Constitution they could recover, but it would be an extremely dangerous thing to say that before these enterprises could be carried on at all, we must get the consent of people living along a particular street. I hope the amendment will not prevail.

Mr. JAMES. Mr. President, I am very glad that Mr. Evans made these remarks, because that is just exactly what this section is in there for, and what it covers, and if it is stricken out, just what he suggests to you will occur. It would have been impossible for the D. & R. G. railway company to have ever gone through this city, if they had to contract with the property holders. They never would have got through, and you would just simply have sent the road around the town or something else. It is a provision that, as the gentleman says, restrains, but does not go so far as to legislate and leave the matter open to the Legislature.

Mr. KIMBALL (Salt Lake). I hope that before we have finished this Constitution we can make some provision in it, if this does not pass, to protect the property owners against those corporations. There are not less than three streets down in the locality I live in that have now been almost ruined for residence property. Poor people that settled there many years ago and erected nice structures and taken pride in their homes—corporations have received their franchises from the city councilors, without those people having the least privilege of redress, or if they have made a petition they have paid no attention to it. Law-suit—you know what it means to law against a railroad corporation, with

poor people especially. Now, homes have been ruined, and I say that before these things have gone so far as to ruin the homes of the poor people, something should be done in the way of protecting them, that they may not have to wait until their homes have been tumbled down by the jarring, and dragged through the ruinous effect of the traveling trains, and their white walls blackened with the smoke, and all these disagreeable features, saying nothing of the danger that our children are subjected to by those trains running without regard to schedule time. I submit if this is not the proper provision, that we get something that will protect the people against it.

Mr. EVANS (Weber). Do you observe that this section only provides for street railways, telegraph, telephone, and electric light plants? Was it the street railways that damaged the property?

Mr. KIMBALL (Salt Lake). That is what I had reference to. The franchise was given to this company for a street railway, and they have gone to work and used a locomotive on it—a regular trunk railway.

Mr. RALEIGH. Mr. Chairman and gentlemen, I think this city would have failed to be built up as it is now, if railroad corporations could not have had the right of way through the streets. Now, these railroads that have been constructed, as mentioned here, have all been done under my observation. I helped to pike the way myself for the first one—that is the Rio Grande Western from its depot northwards, and I was about two months—well from April to June, getting that through the city council, with all the opposition of all that street, on each side of it, against me, together with the Union Pacific folks helping to fight with the people against it. I understood as clearly then as I do now, that it was a very great convenience and benefit to Salt Lake City; that at that time grading, gravel at about a dollar a load—and

the streets would not have been graded up from that time to this if we had not got that through to the gravel beds north. Now, I know that we did not come here as a people with a view to building up a city and being independent gentlemen, having an independent fortune, to do it with, in some other way than by railroads—that is, the corporation of railroads to help us, and I am in favor all the time of the franchise being granted and granted by the city council of any city, that know better what to do. It is their business to look ahead and see and examine the facilities that they need to build up a city, and private individuals are not very likely to be acquainted with that fact. They have their little homes here and there along the street, but they do not contemplate the wants of a city, nor the facilities which are necessary to build up a city, and consequently, I am not in favor of this amendment at all, but I move an amendment to make it a less majority than two-thirds majority.

Mr. EVANS (Weber). Mr. Chairman, I want to make a suggestion before the vote is taken. This thing is so far reaching, that I want the gentlemen to understand it; that before a franchise could be granted to construct a street railway, or telegraph, or telephone, or electric light plant in this city, it would be necessary that two-thirds, or a majority, as the case might be, vote for it.

Mr. BUTTON. I think the gentleman is going to change that.

Mr. EVANS (Weber). I am speaking of it as it is now. While I am on my feet, I want to show how broad it is, what a wide sweep it takes; take a street railway company that desires to construct through all the streets of the city, if it had to get the consent of a majority of the citizens of the city, do you think it would ever be built? Never in the world. We could not carry on that kind of enterprises with such a provision in the Constitution. It would

be the same with the telephone, telegraph, or electric light company. Take an electric light plant, with poles throughout the city, and to say that they have got to get a majority of the people of Salt Lake City, for instance—could they ever build in it the world? You know before people would permit that, they would ask some consideration for it. The result would be we would have no improvement at all in this city.

Mr. ANDERSON. Mr. Chairman, I am opposed to this amendment. I think it is wrong in principle. The streets of the town belong to the general public, and I do not think they should be controlled by a certain few.

The amendment to the amendment was rejected.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I was going to change my amendment to "steam." I do not think it could apply to this.

The amendment was rejected.

Section 9.

Mr. BOYER. Mr. Chairman, I move to strike out, in line 5, the word "requiring."

The amendment was agreed to.

Section 10 was read.

Mr. KIESEL. Mr. President, I want to add an amendment, "No corporation shall do business in this State," I want to add, "without first filing a certificate of its charter with the secretary of state." I think it is customary. I know I have been required to do that.

Mr. RICKS. I would like to ask Mr. Kiesel if that is not already provided in section 2?

Mr. KIESEL. I guess it is safe enough to leave it that way.

Mr. THURMAN. I second the amendment proposed by the gentleman.

Mr. IVINS. Section 2 does not refer to the matter of his amendment at all.

Mr. JAMES. I understand the gentleman withdrew his amendment.

Mr. KIMBALL (Weber). Mr. President, I move to amend that amend-

ment by striking out the word "charter" and inserting the words, "incorporation and."

Mr. KIESEL. Mr. President, the legal gentleman suggests that instead of certificate it should be a certified copy, and I will amend it in that way.

Mr. THURMAN. Add your amendment to the section as it stands. It will read better.

Mr. KIESEL. All right. I will accept that.

The amendment was agreed to.

Section 11 was read.

Mr. STREVELL. I would like to ask the chairman of the committee a question in regard to this matter. I would like to get this idea clear in my mind. For instance, I remember of an incorporation that was doing a merchandise business, in a certain line of business; supposing we wanted to add another line, would we be obliged, in order to do it, to reincorporate?

Mr. JAMES. That was discussed for half a day and amended by Mr. Thatcher, so that it would cover everything.

Mr. STREVELL. If we incorporated in a certain way, and a year after that we wanted to add another line to our business, would we have to amend our articles of incorporation?

Mr. JAMES. Yes, sir.

Mr. KIESEL. Mr. President, I move to strike out this section, because I think it amounts to a restriction in the way of business. It is just as Mr. Strevell states, there are things occurring in the way of business every day nearly, and we could not keep track of business unless this article was disposed of. I want corporations that are endowed with a certain amount of capital to have the same rights as individuals have, and I do not see why they should not have if they go into an association and put up the capital. It amounts to a restriction of business and enterprise, and I am opposed to it on that ground.

Mr. EVANS (Weber). Mr. President, I am afraid my friend from Weber does not understand the full import of this. The public have a right to know some things, when they grant privileges and rights. They have a right to look into the articles of incorporation and ascertain what the particular business is which that corporation has been carrying on. That is all there is about it. We leave it so open that you can incorporate just as many lines of trade or business as you please, but we say that they must be designated in the articles, so that the public may see what it is and ascertain its status. I think it ought to remain, and I think that if my brother, Kiesel, would examine the matter carefully, he would not object to it.

Mr. KIESEL. I want to ask you why you do not require that of individuals? The corporations associate themselves for the purpose of business, just the same as individuals go into business, and I think the effect of it will be to restrict business. The public is always guarded. There are a number of agencies in this country. Take, for instance, Dun's or Bradstreets', that keep track of all these institutions, and there should not be any restriction on a business that I can conceive of, that it will damage the public at large.

Mr. EVANS (Weber). An individual does not receive any franchises or immunities from the law or from the lawmaking power. He is an individual, and is at liberty to engage in business just as he pleases, and the individual doing business with him knows that, and makes his inquiry accordingly. Corporations receive their franchises from the government or from the state, and therefore, they are regulated by law; but another thing about this, that is suggested, as the law now stands, no corporation can do business in any line, except that which is designated in the articles of incorporation, and it is so everywhere. Every corporation man

ought to designate in his articles the particular character of business which he is carrying on, for the protection of the public. It does not injure him any. If he wants to add another line or branch of business, all he has to do is to have his articles of incorporation amended, and then go on and carry it right along.

Mr. RICHARDS. I desire to ask Mr. Evans a question. Is it not a fact that this is not only a declaration of the statute law as it now prevails in this Territory, but that it is a declaration of the common law, and that in the absence of a statute the court would hold it ultra vires to do business not specified in the article?

Mr. EVANS (Weber). That is true, an incorporation is an artificial person under the law, and its powers must be restricted by law.

Mr. KIESEL. Mr. President, I contend that if this article prevails, it will be in the interest of the lawyer.

Mr. JAMES. Mr. President, I hope the gentlemen will not strike this out, and I know if Mr. Kiesel had been here through our long debate on this question, he would not raise the question at all. It is one of the most liberal provisions in any constitution in the United States.

The motion to strike out was rejected. Sections 12 and 13 were read.

Mr. RYAN. Mr. President, as section 14 was stricken out, I desire to offer the following section:

No discrimination in charges or facilities for transportation shall be made by any railroad or transportation company between places or persons, and all railroad companies shall receive and transport each other's passengers and freight, without discrimination or unnecessary delay.

I will say, Mr. President, that the section, as we passed it the other day, simply provides for no discrimination between the freight or passengers of other railroads, and as section 14 was all stricken out, it appears to me that the

first part of it there ought to be retained in section 13. It protects the public from the railroads.

The proposed section was rejected.

Mr. JAMES. Mr. President, in section 13, I want to strike out the words, "all railroads," in line 3, and add in lieu thereof, the words, "and such." That is a mistake in some way after it left the hands of the committee.

The amendment was agreed to.

Mr. Maloney offered the following section as section 14:

Every corporation doing business in this State shall be liable for all damages sustained by any person, including employes of the company, in consequence of any neglect of the agents or other employes of the corporation, to any person sustaining such damage.

Mr. JAMES. Mr. President, I move to insert the words, "all corporations and individuals."

Mr. EICHNOR. Mr. President, I offer a substitute for the whole section.

The PRESIDENT. There was an amendment previous to yours, offered by Mr. James.

Mr. VARIAN. Mr. President, the substitute offered by Mr. Maloney proposes to disturb the existing law to this extent, and I apprehend this is the sole purpose of it. As the law stands today, an employe of a company engaged in, we will say, hazardous service, is adjudged to take upon himself as a part of the risks of his employment the possible negligence of persons engaged with him in the same particular branch or line of service. Now, as I understand this, if adopted, it will hold every corporation or individual absolutely liable in all cases, where the injury or accident is caused by the negligence of any one of the servants of that person or corporation. Of course, that is the meaning of it, is it not? I doubt very much whether that is in accordance with natural justice. I am quite sure that it would be a matter for serious question if it were presented

in a legislative assembly, whether a state should go so far as to make all persons engaged in hazardous or risky employment, employing large numbers of men, the insurers of the lives and persons of those who are willing to risk themselves for the sake of gaining employment in that service.

Mr. BOWDLE. Was not that very bill brought before the Legislature a year ago, to cover that same thing.

Mr. VARIAN. I do not remember. If I had a chance to vote on it, I think I voted no.

Mr. IVINS. It was.

Mr. VARIAN. Because it would tend, in my judgment, to impede the proper enterprise of the country. The law is generous enough now, if it is properly administered. If it is properly administered through courts and juries, there is no trouble about it, but to say that no man can enter into the business of mining, which necessarily involves the risk of life everywhere, or in the business of railroading, which necessarily involves the risk of life and limb, at all times, and upon all occasions, or it may be indefinitely pursued into different employments and avocations, which in a more or less degree involve these risks. Men are supposed to take that upon themselves, and their employers are liable for the negligence of those in authority over them. That is just and right. That is the law as it stands, but this provision is designed to reach a case not covered by existing law, and whether it be a person or corporation, to make it absolutely liable for the neglect of any employe. Two section men on a railroad, both undertaking the same line of employment; two miners in the breast under ground a thousand feet; both undertaking the same employment, entering upon it with a knowledge of the risk; one commits some fault, omits to do something, or does something in a negligent way, and his fellow servant is injured, the employer is to be held liable for that.

That is a very different proposition from holding the employer, if the foreman or the man who has charge of the the work omits to do something and is guilty of negligence.

Mr. EICHNOR. Mr. President, I am in favor of the amendment and also of the substitute. I will state my reasons. This doctrine that the master would not be liable for one of his servants, if that servant was negligent, and through that negligence a fellow servant was injured, is the doctrine found in the old Roman law. That principle was adopted by the English common law. The first decisions we have had in the United States, I believe were in Massachusetts and South Carolina. Now, what is the status of this doctrine to-day? The status of this doctrine is that if a switchman opens a switch and a freight train is ditched and the engineer is killed, the company goes into court and says it is the negligence of a fellow servant, and the judge grants a motion for a non-suit on motion of the attorney for the company. That is the rule here. Now, what is the history of this in the case where it was first adopted? France, in 1834, provided an article similar to this. England, the very place where this doctrine started, has repudiated it. England, in 1880, employed what is known as the employer's act.

Mr. VARIAN. Are you sure of that fact?

Mr. EICHNOR. Yes; I have it right here if you wish to see it. Prussia, which is quite extensively engaged in mining and manufacturing, in 1881, repudiated this doctrine that they had received from the Roman law, and in all the countries in Europe where this doctrine was adopted, that the master was not responsible for the negligence of a fellow servant, it has been repudiated. The United States retains it in some of the states, and in some of the states statutes have been passed, and they have been declared constitutional, to like effect.

The state of Iowa has a statute right in line with this substitute and the supreme court of the United States lately has declared that statute constitutional. Kansas has a similar statute, and a number of other states. Now, I believe that I have been classed among my fellow delegates here as a corporation man, but I state right here, that I believe in giving corporations everything that is right, but I believe in giving the individuals some protection.

Mr. CHIDESTER. In any other constitution that you have mentioned, is this incorporated? That was in the statute law.

Mr. EICHNOR. I looked this morning, but I was not able to find it.

Mr. CHIDESTER. That is a proper provision to put in the statute, but not in the Constitution.

Mr. STREVELL. It is in Wyoming.

Mr. EICHNOR. Now, this is the state of affairs to-day, that no man that works either for an individual or for a corporation or for a partnership has any protection, if a co-laborer of his is negligent, and he loses his life—his heirs are absolutely without remedy. I challenge any one to bring the proof here to the contrary. With regard to the law that was enacted in 1881, in Prussia, to which I referred, it was claimed that the exigencies of the time demanded a closer construction in favor of the public. If we place this substitute in our Constitution, what will we have? What will be the result? The result will be that men that employ laborers will not simply employ cheap labor, but will employ competent men. They will see to it. That will be the effect, and the public will be finally benefited by it as well as the corporations or individuals, or partnerships, whichever the case may be. Clinging to an old doctrine that has been exploded in the very countries that have adopted the civil law—I think it is what the gentleman termed

some time ago on this floor, a relic of barbarism.

Mr. BOWDLE. Mr. President, I believe that I have never spoken a single word on this floor against the poor man, his interests, or a laborer, or his interests, and I do not expect to. But I am not in sympathy with this amendment, and I think that I will have to answer my brother over there and accept the challenge that he has thrown out. This, as I understand it, is the law at the present time on that subject: If a corporation or an individual hires an incompetent and careless man and knows that he is such, although he is a fellow-servant, and a fellow-servant is injured, the corporation would be held liable, because of hiring a negligent, unworthy, and untrustworthy man and putting him there. But, as our law is here at present, if any person, corporation, or individual employs competent men, and through the negligence of one of those competent men the fellow-servant is injured, then the fellow-servant has no remedy. If you adopt any other rule than that, you make the person doing the hiring an insurance company to insure every single act of every one of his fellow-servants. Now, I submit to you that that would be a hardship. It would be unjust and unfair, because the corporation or person hiring has done its duty when it has put a careful man there. It has exercised due care in doing that, and the man that is working with him knows whether he is a careful and competent man or not. He knows that if he is not careful and competent, he is the very one to avail himself of that knowledge and immediately complain to the authorities that put him there and get his release, and I submit it as a proposition that if a fellow-servant knowing that another fellow-servant is incompetent and careless, and he were to give notice to the employer of that fact, and he was injured, he would get his remedy for it. I think the courts have construed that law, and would

hold that the company was then negligent and should be held, because it had notice of the incompetency of that servant.

Mr. THURMAN. Do you think this proposed amendment affects the question of notice at all—not the law of negligence that you are speaking of? Wouldn't the man still fail in his demands to recover damages if it were shown that he knew?

Mr. BOWDLE. I think so. I think, under that amendment, he would fail, because then would come in the doctrine of contributory negligence, and would defeat the very action.

Mr. EICHNOR. I would like to ask Mr. Bowdle another question. Do you mean to say, as an attorney, that if that substitute were adopted, it would disturb the doctrine of contributory negligence?

Mr. BOWDLE. No, sir; I do not understand so. That was not in accord with the answer I gave Mr. Evans at all. Mr. Evans asked me the question if the person knew that the other was negligent, even if this amendment would prevail, would it affect his right to recover? I say, I do not think it would.

Mr. RICKS. I want to ask Mr. Varian a question. If this substitute passes, and any farmer sent two men out to mow hay, for instance, and one of them, through the carelessness of the other, got his leg cut, if he could sue that farmer for damages?

Mr. VARIAN. I see no reason why he should not.

Mr. HAMMOND. Mr. President, I am opposed to the amendment if that is the case. If I hire a broncho rider to break in mustang horses, and he knows the business better than I do and is acquainted with it, and I agree with him to break a mustang for five dollars or ten dollars, now, if that fellow breaks his neck in the business, am I to be hung for him? I do not think this thing is right.

Mr. EVANS (Weber). Mr. President,

if Mr. James's amendment were to prevail, the question asked of Mr. Varian is properly answered. If any farmer, mechanic, or any other individual engaged in business sends two employes out together and one injures the other through his carelessness, the liability would follow as against the employer. This doctrine of fellow-servants is one which has been construed so many times by the courts and left in so much confusion that it is very difficult to harmonize the decisions. Parliament has recently passed an act, as has been stated, called the employers' act, which makes railroad companies alone responsible in case one employe, through his negligence, injures another. It seems to have been the recent trend of legislation in some of the states. Notably Kansas, I know, has a legislative provision to that effect, and within the last few days the supreme court of Kansas, passing upon a provision identical with this, has held such provision to be constitutional. But I want to say, gentlemen, for the information of the Convention, without giving any particular opinion, that the meaning of this section is this: If it be adopted without the amendment of Mr. James, that if any railroad company employs a number of men and one of those men engaged in the same department or line of business injures another through his negligence, the company is responsible for it, and it has been held by the supreme court of the United States under the law as it now stands, that where a person in the employ of the company holds some superior position and directs the work to be done, that liability follows as against the company, because it is held that they are not fellow-servants and do not stand upon an equal footing.

Those people who favor the idea of making railroad companies responsible for the negligence of a fellow-servant, use this argument, as a rule, that it imposes a greater care upon the company in the selection of its servants and em-

ployes, and accidents are less liable to occur, whereas, on the other hand railroad companies or individuals say that they have performed their whole duty when they are careful in the selection of their employes; that if liability follows where two men are working in the same line of employment, the liability should not fall upon the company. The question Mr. Bowdle puts, as relating to the question of employing competent employes, the company is always liable if it fails to employ competent persons and an injury results by reason of that fact, and that is one of the strong arguments used on the other side. I only say this much for the purpose of showing you what the section means and its results and what people claim for it on both sides. As far as I am concerned, on this question, I will not vote at all, because I feel myself so directly interested, having prosecuted so many companies for injuries to employes, that I do not feel I ought to vote upon that question.

Mr. VARIAN. Mr. President, I submit this is a matter purely of legislation, and that if it goes into this Constitution, there is a matter of expediency that ought to be considered. Every railway company east and west and every corporation in the land will lend its influence to defeat this Constitution.

Mr. JAMES. I want to ask Mr. Varian if it was not as just to compel the farmer to pay for the fellow who got his leg cut off, as it would be to compel the railroad or miner to pay the fellow who got his finger knocked off by the sledge hammer?

Mr. EVANS (Weber). Mr. President, those people who advocate a section similar to this say that railroad companies are public in their nature, and should be restricted to more care than individuals.

The amendment of Mr. James was rejected.

The section offered by Mr. Maloney was rejected.

Sections 15, 16, 17, 20 and 21 were read.

Mr. ANDERSON. Mr. President, I move we strike out section 21. This is class legislation, and I do not think it should be incorporated in our Constitution.

The motion was rejected.

Mr. ANDERSON. Mr. President, I move as an amendment to this section to strike out the words "employee, attorney, or agent."

Mr. EVANS (Weber). Mr. President, I raise the point of order that that has been passed upon.

The point of order was overruled.

The motion was rejected.

Mr. Kimball, of Salt Lake, offered the following as section 22:

No steam railroad corporation shall enjoy the franchise on streets of any city, without first obtaining consent of a majority of the people whose property may be damaged thereby.

The section was rejected.

Mr. RICHARDS. Mr. President, I move to strike out the words, "telegraph and telephone," in the sub-head.

The motion was agreed to.

Section 22 was read.

Mr. VARIAN. Mr. President, after the word "others," in line 6, I move to insert the word "written." It is suggested that telephone messages are not written. It has reference to transferring from one company to another.

Mr. RICHARDS. Mr. President, I hardly think the gentleman realizes the force of that amendment. In case of a telephone company, suppose they were connected with each other and in order to let a person talk over two lines, they would have to be connected? That would not be a written message.

Mr. VARIAN. I did not anticipate it would be possible that there would be such a connection as that.

Mr. RICHARDS. Suppose there was one telephone line extending from here to Ogden, and another from there to Logan?

Mr. VARIAN. Then, I suppose they ought to write out the message if they want it transmitted.

Mr. RICHARDS. No; they transmit their own messages over the telephone wires.

Mr. VARIAN. That does not authorize, as I understand it, the actual use by one company of another's paraphernalia of office.

Mr. RICKS. I suggest to Mr. Varian, would not the word business in there answer the purpose?

Mr. VARIAN. That would be better than just to leave it messages.

The amendment was rejected.

Mr. RICHARDS. Mr. President, I think that this section either ought to be stricken out or reconstructed. I therefore move to strike it out. I take it, that it does not mean anything more than would exist if this were not in the Constitution. No question about that. It does not pretend to give them any franchise or anything of that sort, but simply gives them the right to enter into this kind of business, and any one would have a right to do that, without any constitutional provision. It was claimed in the committee that this was new matter, that was not provided for, and that is the only thing that there is new about it: "And said companies or individuals shall receive and transmit each other's messages without discrimination or unnecessary delay." The other provision, that the right of eminent domain is hereby extended to all telegraph and telephone companies, would be provided for in the absence of this. So I say that the section as it stands ought not to remain, and I do not think anything would suffer by striking it all out.

Mr. MALONEY. Mr. President, I do not see any reason why this should be stricken out. I could not hear all that Mr. Richards said, but it ought not to be stricken out without some reason being given for it. I say that a message transmitted from one line to

the other ought to be transmitted without discrimination or unnecessary delay. There are a great many reasons why we should have such a section as this. It was fully discussed in the committee. It compels the companies to transmit on being paid their charges.

Mr. RICHARDS. Is it not a fact that the Legislature would have authority to provide for that?

Mr. MALONEY. I don't know whether it would or not, but it provides for it here. I will say to Mr. Richards, I have no confidence in the Legislature legislating against corporations, when they are always so represented in the Legislature, as they have been for ten years. This is a more representative body than the Legislature, not because we have more talent, but the people are better represented. Every county is represented here.

The motion to strike out was agreed to.

Mr. EVANS (Weber). Mr. President, I move to insert, after section 22, the following section, to be numbered section 23:

No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the Legislature, or to any person holding any public office under this State.

This matter was so fully argued the other day that I do not intend to reiterate it. I simply want to refresh the minds of the gentlemen of the Convention on what was said the other day. I do think, upon reflection, that that section ought to stand. I believe that it has vitality and force, and will result in much good to the people generally. No man gets much benefit from this except the public officer. The people get none. It will cost the people no more, and the principle is wrong to pass public officers free. Why is it, let me ask again, that the railroad companies always put these passes in the

hands where they will do the most good? I venture to say, and I only remark it jocularly, that if every gentleman in this Convention who expects to hold an office and receive the benefits of free passes, would vote in favor of the insertion of this section, it would go in almost unanimously.

Mr. THATCHER. Mr. President, I think I could vote for this section if I was not quite certain that it would be inoperative. I have had something to do with railroads and know how difficult it is to control this pass business. But I take it, there is not a railroad in the United States that would not favor the passage of this section. They are all working to that end. The pass matter is something that they hardly know how to deal with; but I say to my friend on the right here, that when they are disposed to give to any other person, whether official or otherwise, transportation, they can easily manage it, even though you might have a dozen such sections in your fundamental law.

Mr. VARIAN. Mr. President, take the case of a public officer—for instance a judge, if there is a prohibition by positive law against it, you would not expect such officer to violate the law himself, would you? He is there to administer the law. He does not break it.

Mr. THATCHER. At the same time a railroad company could hand him a ticket and he could pay the money for it, just as we all do when we buy a ticket, and I take it, if the railroad company were to remit that money, later on, there would be no very great objection to it.

Mr. EICHNOR. Mr. President, I presume the gentlemen who are anxious to pass this section, have never traveled on passes.

Mr. EVANS (Weber). I would like to pass this section and I have never traveled on passes.

Mr. HOLLIDAY. I will vote for it, and I have traveled on passes.

Mr. EICHNOR. Gentlemen, if you

can enforce it, it would be a good legislative enactment. Just as long as any one proposes anything on this floor that is in line with this, several gentlemen get up and say it is legislation of the purest kind. Now, I say to you it is legislation of the purest kind. Let the Legislature deal with.

Mr. EVANS (Weber). In every Legislature in this Territory all the members have come here on passes, haven't they, since the railroad was built?

Mr. EICHNOR. I don't know.

Mr. EVANS (Weber). That is a fact. That is historic. Could you expect the Legislature to pass such a provision with a pass in the pocket of every member?

Mr. EICHNOR. I will answer that question by saying that if it is purely legislative the Legislature will deal with it. I say that any man that can be bought with a pass is the poorest trash. I will say this, that you can call the yeas and nays on this, and I shall vote against the section, because I do not think that there is any railroad corporation that can buy me with a railroad pass.

Mr. CORAY. Mr. President, I have a substitute I would like to offer for this section:

Any pass or rebate on transportation granted by any transportation company shall be deemed a bribe and be punished in accordance with law.

The section proposed by Mr. Coray was rejected.

Mr. MALONEY. Mr. President, I am opposed to passes in any way, shape, or form—contributions, or rebates, call it what you please. Railroad companies never grant passes unless they have an object in view. They expect to be compensated. Judges and legislators ride all over this Territory, and into foreign states with passes in their pockets. They naturally feel inclined to repay the railroad companies in some way. It said that if something of this kind is not done, for these State

officials, these State officials will unconsciously do something for the railroads; that is not in the interest of the people. I have seen too much of legislating for the benefits of railroad corporations, and I have seen the evil effects of it. Whenever a railroad company puts a pass in the pockets of an officer, it does not do it unless it expects to get the benefit of it.

The roll being called on the section offered by Mr. Evans, of Weber, the result was as follows:

AYES—33.

Adams	Maeser
Call	Maloney
Chidester	Murdock, Wasatch
Coray	Nebeker
Corfman	Partridge
Creer	Preston
Cunningham	Raleigh
Driver	Robison, Wayne
Evans, Weber	Sharp
Evans, Utah	Squires
Halliday	Stover
Hyde	Strevell
Johnson	Thorne
Jolley	Thurman
Larsen, L.	Varian
Lemmon	Wells.
Lowe, Peter	

NOES—43.

Allen	Kimball, Weber
Anderson	Lund
Barnes	McFarland
Bowdle	Morris
Boyer	Murdock, Beaver
Brandley	Murdock, Summit
Button	Page
Clark	Peterson, Grand
Eichnor	Peterson, Sanpete
Emery	Richards
Engberg	Ricks
Farr	Roberts
Green	Robertson
Hammond	Robinson, Kane
Haynes	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Symons

Ivins	Thatcher
James	Thompson
Kiesel	Williams
Kimball, Salt Lake	

ABSENT—30.

Buys	Larsen, C. P.
Cannon	Lewis
Christiansen	Lowe, Wm.
Crane	Low, Cache
Cushing	Mackintosh
Eldredge	Maughan
Francis	Miller
Gibbs	Moritz
Goodwin	Peters
Hart	Pierce
Hughes	Ryan
Keith	Thoreson
Kearns	Van Horne
Kerr	Warrum
Lambert	Whitney.

The president declared the substitute lost.

Mr. EVANS (Weber). Mr. President, before we get down to section 32, I desire now to reinsert section 25. It is the section, gentlemen, which makes stockholders of insurance companies individually liable for the payment of losses.

The question being taken on the motion, the Convention divided, and by a vote of 45 ayes to 24 noes, the motion was agreed to.

Mr. IVINS. Mr. President, I move now a reconsideration of the vote by which this section was just reinstated. I voted in the affirmative. Had the question been debated at all, before the motion was put to reinsert it, I do not know that I should have said anything, but I want to ask this body of men why each stockholder of any insurance company shall be individually responsible for all of the liabilities of that corporation, when such a law applies to the individual members of no other corporation?

Mr. EVANS (Weber). Banks.

Mr. IVINS. Well, banks, under certain conditions. It seems to me there are other corporations in which there is

just as great an opportunity to defraud creditors as in the insurance business, and I can see no reason why this special legislation should be passed here. And that it is legislation there is no doubt in my mind. The question was fully debated in the committee of the whole and was stricken out. Now, there ought to be some good reason why it should be reinserted, and I want to ask what those reasons were. That was my reason in asking that this vote be reconsidered. There may be some good reasons. I am not specially interested in this section, but I believe the action of the committee of the whole was a wise one, and that whole article on insurance ought to be left to the Legislature to handle and determine. It is not a question that ought to go into the Constitution at all, in my opinion.

Mr. THATCHER. Did you vote on the section on banking, that requires double liability?

Mr. IVINS. No, sir; I did not vote on any of these sections.

Mr. THATCHER. I am engaged somewhat in the banking business and am in favor of the double liability. The reason I am so is to protect depositors. I am not only in favor of a double liability, but I believe that a man should be to the full extent of his ability. And certainly banking is not more hazardous than insurance, and for the protection of the general public I have voted for double liability as restored under the motion of Mr. Evans. We would not require it of corporations in merchandise, because there is not the risk which is found in banking and in conducting the business of insurance for the public, and I vote for this double liability for another reason. There is but one home company of which I have any knowledge whatever, and in the interest of that company, I vote for this section, for if it is once known (and it will become known after this Convention shall have adjourned) that there is no liability other than that of the fully

paid up stock, it will greatly injure the business of the home company. If you want to build up a prosperous business in this country, you must assure the people that the foundation is broad and deep and that the risk is not great, and I think we ought to retain this section in the Constitution. Therefore, I voted for its restoration and I shall now vote against its reconsideration.

Mr. KIMBALL (Salt Lake). Mr. President, when this matter came up in committee of the whole, I took the same position as Mr. Thatcher, at which time I inquired of the management of the home company, and I found that it was through their solicitation to a very great extent that this was placed in there as a protection. On inquiry I found that the company was having a very hard row to hoe. The non-union companies have come in here and cut the prices to such an extent that it is a very hard matter for our home company to stand. It has been a very hard matter to get people to subscribe to stock in the home company, and if this section remains in, they apprehend that they will not be able to get any assistance further to strengthen their hands. I am convinced, since voting to the contrary, that we should strike this out, and I will vote contrary to what I did in committee of the whole, and reconsider this matter.

Mr. WELLS. I wish to ask Mr. Thatcher a question. Is it your understanding that this provision in section 25, if adopted, applies to the insurance company that is now chartered in this State or Territory?

Mr. THATCHER. It could not apply to that, because they have had their charter. We cannot make any law retroactive, of course.

Mr. WELLS. I understood you to say it would.

Mr. EVANS (Weber). Mr. President, it seems to me that this Convention is here legislating in the interests of the people and not in the interests of any

particular corporation. You examine the laws and constitutions of other states, gentlemen, and you will find this provision a very common one, and not only that, but they usually go very much further than this, and require large deposits of money. It is not only in the interests of the people to do that, but it is in the interests of the companies themselves, as has been stated by Mr. Thatcher. Who are there among you who would insure in the home company, if it is in the condition, or believed to be in the condition that the gentleman from Salt Lake says, having a hard struggle to get along, with no property at all, except its franchise, and its stock, which amounts to nothing? That is all it has, unless it owns real estate, or if it owns money, it is very easily disposed of, but you once make the stockholder individually liable and it will give stability to the business. Men who desire to insure will go to the company, because they will say that this is a solvent company. The individual stockholders are personally responsible. We have confidence and faith in their ability, even should the company fail; therefore, we will do business with them. Whereas, if you simply permit a wildcat insurance company to exist, do you suppose that it can thrive, and do business at all? Why, certainly not. Besides all that, gentlemen, when we legislate, we ought to legislate not so much in the interest of the particular company which desires to do business, as in the interests of this people, who unsuspectingly are doing business with such companies.

Mr. SQUIRES. Would not this action kill the company that is in existence here?

Mr. EVANS (Weber). That question has been amply answered, and I do not care to go into authorities on it. It is held, and properly, too, that we cannot make a Constitution here that will violate the obligations of an existing contract.

Mr. SQUIRES. That is not my question. If the additional stability which would come to an insurance company by the adoption of this article is what is to be desired, would not the absence of it in the case of the present company be hurtful to this company?

Mr. EVANS (Weber). It may. I do not know, but I am quite sure that the presence of such a liability would assist it. They could come in and secure future legislation and come under the provisions of this Constitution and have the advantages of the stability that I have named. Gentlemen, an insurance company exists for the purpose of making money from the policy holders, for the purpose of extracting the money from people, and it is expected when they do that, that if losses occur, they will return to the persons who have sustained the losses the money which they have contracted to pay. Now, why is it, in this Convention, when we are considering the article on private corporations, that an insurance company is outside the Constitution or the law? Every section relating to insurance has been stricken out, and some people have been rash enough to say that the reason why it has been done is because of the presence upon the floor of this house of men interested in insurance companies. Can we afford to rest under a suspicion of that kind? Let us legislate in the interests of the people, and it will be in the interests of the company that the section remain as it is, and that the motion to reconsider will not prevail.

Mr. JAMES. Mr. President, I deprecate that any gentleman should make remarks upon this floor that partake of the insinuations just made, that it was owing to lobbyists upon this floor. Now, Mr. President, I repudiate any such an insinuation. I moved to strike that proposition out, as I have stated before this Convention, because I found on investigation that it was an injustice. I found that we were trying to tie

down and make responsible a company here doing business in this community when it did not do one-hundredth part of the business, and the business was all done by foreign companies that we could not reach. I offered an amendment here that would put all companies on an equal footing, that would compel the Legislature to require of every company doing business in this community that they should secure the policy holder against loss. That was my proposition.

Mr. EVANS (Weber). How long do you suppose people would put their deposits in banks and do business with banks, if the stockholders were not individually liable for those deposits?

Mr. JAMES. If we could not reach the stockholders who lived in foreign countries, legislation of that kind would be absolutely useless, and then we would go to the Legislature and enact laws; because foreign companies are doing all our banking here in this Territory, and we cannot reach them with our legislation—enact laws that would compel them to hold property or put up securities, so that our funds will be secured, and that we cannot be robbed. I understand that Mr. Barnes is a member of the home insurance company. Mr. Barnes do you give any security to the public to protect them against their losses, should you fail to pay your losses in case of fire?

Mr. BARNES. The company has assets amounting to \$380,000.

Mr. JAMES. Where do you keep those assets?

Mr. BARNES. They are invested in various companies and in real estate in this city and in other places.

Mr. EVANS (Weber). Do I understand now that this legislation is in the interests of a delegate upon this floor?

Mr. JAMES. No, sir; it is in the interests of the public. I simply asked Mr. Barnes a question for information, that is all. Now, I want to state to you, Mr. President, that there is a pro-

vision in this article that requires corporations to file an acceptance of the provisions of this article in order to benefit by future legislation. Now, you are going to have a company doing business here that is unable to be benefitted by future legislation unless it accepts those provisions. And it is, as Mr. Wells asked Mr. Thatcher, a few moments ago, retroactive; practically under that provision it is. You cannot get away from it. Now, we have heard of gentlemen here on this floor—that you have an insurance company here that holds property in this community that does guarantee the property holder against loss to a reasonable extent. What guaranty have you from foreign companies? Is there any? I would like to know if there is, where it is. Now, why should this style of legislation be had? I say, Mr. President, that we should be just.

Mr. EVANS (Weber). Do you not know that these fire insurance companies that are the most stable and most reliable are required by the laws of the several states, wherever they exist and where they are created, to make large deposits of money, and also that the stockholders are individually liable?

Mr. JAMES. That is true. The stockholders in New York are held responsible, and they are also required to hold property or put up a guaranty fund. But now I want to call the gentleman's attention to a company that I called attention to a few days ago upon this floor, that owns a building in New York that cost three millions of dollars, and they have assets of over three millions more, and still here is one of our best known citizens in this town—for two years, he cannot collect one cent, after paying over five thousand dollars on the policy. Now, can we legislate to reach that company that beat that man and his heirs out of that honest money? Now, I do not want to say much more, but I do regret that a

gentleman gets up on this floor and makes reflections upon me for making an effort to do the very best I can in the interest of the people and for the good of our State.

Mr. KIMBALL (Salt Lake). Do you understand that the merchants of Salt Lake scarcely get enough fire insurance to-day?

Mr. JAMES. That is the information that comes to me.

Mr. KIMBALL (Salt Lake). You have gone to work and struck out everything here in committee of the whole which protects the people against the foreign companies, and we want to leave that section in that will crush the home company. I do not think it is fair, is the reason I have changed my vote. I ask Mr. Evans, are you willing to reinstate section 26 or something similar, to protect the people against the foreign companies?

Mr. THURMAN. Yes, sir.

Mr. EVANS (Weber). I certainly am, but I do not know whether the chairman is or not. He is the proper person. I think, to appeal to.

Mr. KIMBALL (Salt Lake). I ask, do you make the proposition to reinsert section 25?

Mr. EVANS (Weber). My record is that way all through this Convention, to do anything that will protect the people.

Mr. KIMBALL (Salt Lake). That will include my vote. After seeing section 26 stricken out, discrimination against the home company, I changed my vote.

Mr. ROBERTS. I wanted to ask Mr. James a question, as the chairman of the committee on corporations other than municipal, and also in view of his remarks a few moments ago. Mr. James, I wanted to know if you were in favor of section 32 and voted to retain it?

Mr. JAMES. I was in favor of the bankers being responsible for the amount of the stock, but on consulta-

tion with banking men, they suggested that we ought to make them responsible for double the amount, and I said all right, gentlemen, I have no objection; I want to protect the people wherever I can. I supported the section and voted for it all the way through.

Mr. ROBERTS. I would say, Mr. President, that since the gentleman announced in his remarks a few moments ago that he was pre-eminently and all the time in favor of justice, why is it that he is not willing to protect the people against insurance companies as well as banking companies? I take it, sir, the gentleman who has voted in favor of section 32 in the interests of the community, as against corporations, ought not to object to the protection of the public against insurance companies as provided for in section 25.

Mr. BARNES. Mr. President, I doubt very much whether I can make myself understood with regard to this matter. I will try, however. My friend, Mr. Evans, asked the question, whether it was fair to legislate in favor of any particular delegate. I will say no, and I am sure that I do not ask any person here to grant me any favors, neither do I, as a representative of the home insurance company, ask any favor for them. All we ask is what is right. We ask that we be treated just the same as any other insurance company. Now, gentlemen, is there anything unfair in that? I submit that there is not. I am interested in banks, as well as I am in the insurance company. I say banks, because I am interested in more than one, and I think the responsibility of a stockholder in a bank is ten times greater than that of a stockholder in an insurance company. That is the view that I take of it. I differ very materially with the honorable Mr. Thatcher, with regard to that, and I think that any stockholder in a bank ought to be held liable, not only for the

amount of his stock, but for an amount equal to it, in addition, but I do not hold that it is fair for an insurance company to be held. I think, too, that the honorable Mr. Evans did not understand Mr. Kimball. The Home Fire Insurance company is able to meet its liabilities and never has failed to meet any just liability yet, and I presume never will, while the present company hold the stock. Now, that is the view I take of it.

Mr. KIMBALL (Salt Lake). May I ask a question? The difficulty has been the war in the main?

Mr. BARNES. Most assuredly. They are not bankrupt. You can go to the treasurer, gentlemen, if any of you doubt the assertion I make, and you can examine the stocks. I grant you they would allow the privilege. What makes it hard getting along, as the gentleman has just stated, is the rate war that has been going on. They are not making any money. Stop and think a moment and see what they have made in the past, and then consider the war that is now on and that has been raging here for some time, and the amount that they are making—I doubt if it would pay expenses. But that is not the idea. The idea with me is this, you cannot get that from any other company that is here in this section. Then, why should you demand it of the home company? If you could treat all companies alike—there are seventy-eight insurance companies doing business here in this city.

Mr. JAMES. Excuse me, Mr. Barnes, there are over a hundred, including fire and life.

Mr. BARNES. Now, the one is to be singled out and the rest go without this provision; why should it be? You may say it will not affect them, but should they undertake to reincorporate, won't it affect them? Most assuredly it will. Let us do justice to a home institution as well as those that live at a distance.

Mr. MALONEY. Mr. President, if sections 26 and 27 were adopted, would not that help very materially the home company in increasing their business? In other words would not it run out the side companies and keep only those that are perfectly solvent in the Territory?

Mr. BARNES. Well, as to that, I really could not say. There have been but few losses sustained by the citizens of this Territory from fire insurance but what have been met in a fair and reasonable way. Probably there have been one or two companies that have failed, but I think they have been few; that is my understanding of it, and that there are but little losses sustained on that account.

Mr. EVANS (Weber). Mr. President, I arise to a point of personal privilege. The gentleman has misunderstood me if he thought I meant any reflection on him, respecting the question which Mr. James asked. What I said then was intended to emphasize the fact that in making a Constitution we should keep steadily in mind a principle in regard to an individual or corporation. And I desire yet to emphasize that fact, but not for the purpose of casting any reflection upon the honorable gentleman.

Mr. BARNES. I agree with Mr. Evans exactly.

Mr. THATCHER. May I ask the gentleman a question? Did I understand you to say that the home company was solvent?

Mr. BARNES. Yes, sir.

Mr. THATCHER. That is as I understood you—that there is no danger now to the policy holders?

Mr. BARNES. Not the slightest, no more than there has been from the day of its commencement.

Mr. THATCHER. Did I understand you correctly in the statement that there would be no danger?

Mr. BARNES. I do not think there will, sir.

Mr. THATCHER. Then, why fear this double liability?

Mr. BARNES. I do not fear it, only upon the principle that it is unjust.

Mr. THATCHER. But let me call attention to this fact. If Mr. Barnes' statements are correct, then we ought not to attach double liability to the banks, for the reason that there are millions of dollars in this city to-day that render no help whatever to the territorial government, on the ground that it is foreign capital, and is not therefore taxed, so that in that respect I do differ with my friend on the right in this, that while being engaged in three banks, one here in Salt Lake, one at Ogden, and one at Logan, organized under the laws of the Territory, the difference between himself and myself is this: Notwithstanding my interest in those institutions, I stand up and vote for a double liability for the protection of the people, and my friend on the right, because we have a little company here, stands up and votes against it—quite a difference.

Mr. BARNES. I yielded to Mr. Thatcher's questions and he proceeded to make a speech, and I thought I would wait. I do not understand that there are millions of dollars invested in this city of outside capital in banks.

Mr. IVINS. Mr. President, I wish to ask the gentleman from Weber a question. I want to know who it is that says that the members of this committee were influenced by lobbyists when they struck out this section? Can Mr. Evans answer that?

Mr. EVANS (Weber). The records will not show that I said that. I said that there were members interested in this home insurance company who were upon the floor of this house, and asked the question whether that had influenced any one upon this question. That is substantially what I stated. I never have become very personal yet.

Mr. IVINS. The gentleman stated it had been said. I want to know if the

gentleman says this was done by the lobbyists?

Mr. EVANS (Weber). I do not know. They have used no influence so far as I am concerned. They know me too well.

Mr. IVINS. I want to say no one has mentioned this to me who is connected with insurance companies, and I am not connected with them at all. It has been said that section 26 should be retained. I should be just as much opposed to retaining section 26 as I am to retaining section 25, because I can tell you if the restrictions there provided for are placed upon insurance companies, it is my opinion that it will result in a withdrawal of companies from this State, and it is a fact that insurance cannot be secured here to-day—there are firms here that want insurance and cannot place it, so that there is no superabundance of opportunities. On the other hand, if you leave this as it was left by the committee of the whole, insurance companies will bring their moneys here. Their by-laws prevent them from investing moneys in territories, but the moment Utah is admitted as a State, those restrictions will be withdrawn and insurance money will come here for investment. You will find that to be the case, and buildings will be erected. There are millions of dollars of insurance money waiting now for investment at low rates of interest, and I know that negotiations are on foot for its investment, much of it in this Territory when Utah shall be admitted; but you place such restrictions as this upon those companies and they will do just as they have in Arizona, where the same law has been made operative; they will withdraw, until to-day, in that territory, you cannot find companies that will write the insurance that is demanded. Now, these are facts, and, therefore, one of these sections, if reinstated, requires that this whole insurance article shall be taken up and debated and discussed

again, and every section of it will probably occupy an hour or two of time, and Mr. Ricks will be calling me to order more than once if this thing is undertaken, because I shall have something to say about it. I believe it ought all to be left to the Legislature. Let them determine what these conditions are. They will be better acquainted with the facts. I submit there are very few members upon this floor who know anything about insurance or insurance companies, unless they are wiser than I am. I know very little about it, and I feel reluctant to vote either in favor of the section or striking of it out. I believe it is safer to leave it just as it is left in committee of the whole. Gentlemen stand here and argue that if banks are to be made responsible, insurance companies ought to be made responsible, too. That is no argument to me at all. I do not say that banks ought not to be made responsible. If they ought, that might not be a reason why insurance companies should, and if it is an injustice to insurance companies, this section, as it stands, because there is a similar section which applies to banks, that is no reason why this should be left out. It is not logic. It is not argument. I hope the vote will be reconsidered and that it will be left as it was left in committee of the whole.

Mr. KIMBALL (Salt Lake). Mr. Ivins, who will be affected in this Territory if the home company is crushed out?

Mr. IVINS. I do not know who will be affected. I do not know whether this will affect the home company or whether it will not.

The previous question was ordered.

The PRESIDENT. The question now is the reconsideration of section 25.

The question being taken, the Convention divided, and by a vote of 36 ayes to 29 noes, the motion was agreed to.

The PRESIDENT. The question before the house is the section.

Mr. EVANS (Weber). Mr. President, on that question, I desire to speak.

Mr. SNOW. I raise the point of order that this section was reinstated and a motion to reconsider leaves it just where it was before, stricken out.

The PRESIDENT. Yes, it is stricken out.

Mr. EVANS (Utah). Mr. President, while that is a fact, there is a motion here to insert it, and we are considering that.

Mr. CHIDESTER. Mr. President, I arise to a point of order. The point of order is, it stands in the same condition it was before, and those who spoke on it before cannot speak on it now.

The PRESIDENT. The point of order is well taken.

Mr. EVANS (Weber). Mr. President, may I state my point of order?

The PRESIDENT. You may.

Mr. EVANS (Weber). The first vote reinstated that section. Mr. Ivins then moved to reconsider the vote by which the section was reinstated, and that motion to reconsider was passed upon favorably. Now, the section remains there, because we voted it in on the first vote. It stands there, and now the vote by which it was inserted was reconsidered.

The PRESIDENT. The reconsideration casts the section out. That would be the judgment of the chair.

Mr. EVANS (Weber). I dislike very much to do it, but I will appeal from the decision of the chair on that question.

The PRESIDENT. Those in favor of sustaining the chair will say aye—

Mr. EVANS (Weber). Mr. President, is not it debatable?

The PRESIDENT. —those opposed no. The ayes have it. The chair is sustained.

Mr. EVANS (Utah). Mr. President, I submit to you—

Mr. EVANS (Weber). I challenge the

vote. Certainly let us vote understandingly, anyway, even if we cannot speak.

Mr. JAMES. I arise to the point of order, the chair has announced the vote.

Mr. ROBERTS. Mr. President, I arise to a point of order for once, and that is that this matter of appeal from the chair was voted upon without giving gentlemen an opportunity to discuss that question, and I hold that it is debatable.

The PRESIDENT. The house has voted upon it. They can reconsider if they want to.

Mr. ROBERTS. Yes, sir; but they voted upon it without having an opportunity to discuss it.

Mr. EVANS (Utah). Mr. President, I make this point of order. While I think the decision of the chair is proper, it has been passed upon by the house as being sustained, it simply puts this question back where it was before, and we have a right to debate it. There is a motion before this house, to insert this. It was carried. That vote was reconsidered, and that placed this thing back before this Convention, with a motion here to reinsert that, and I take the ground that we have a right to speak upon it—every man who has not spoken upon the question.

The PRESIDENT. The decision of the chair is that there is no question before the house.

Mr. EVANS (Utah). I appeal from the decision of the chair upon that question.

Mr. RICKS. I raise a point of order, that we have just settled that appeal.

The PRESIDENT. That is what the chair understood.

Sections 32, 37, and 38 were read.

Mr. BUTTON. Mr. President, I offer a new section, as follows:

All corporations, partnerships, or individuals, shall be liable for all damages sustained by any person, including employees of such corporations, partner-

ships, or individuals, in consequence of their negligence, or of any of their agents, servants, or employes.

Mr. VARIAN. When was that section voted upon? I arise for information. I make a point of order that the Convention by a vote has disposed of this very section.

The PRESIDENT. The point of order is well taken.

Mr. EVANS (Weber). Mr. President, I desire to move to reinsert section 38. I want to state that when that went out, I do not believe the Convention understood the real effect of it. A bank bill is that which passes from hand to hand, as the money of the bank. It goes out among people everywhere, and it should be first redeemed when the bank fails, because a man holding a bill in his pocket as money—circulating medium—has no means of ascertaining the solvency of the bank. The depositor has. He knows something about the bank. He keeps track of its statement. Now, gentlemen may say that we have no state bank bills at present. That is true, on account of the state tax of ten per cent. on state banks, but if that tax should be repealed (and you know, all of you, that it is a national question which is agitating the minds of the people a great deal), then there will be a large volume of bank bills circulating as money. Now, when a bank fails, gentlemen, I will leave it to you if those men who hold the money in their pockets should not be the first to go to the bank and have it redeemed before depositors or anybody else. The act of Congress is exactly similar to this section. It is in almost the same words, making the bill holders preferred. I think we voted it out when we were not thinking what we were doing. At that time I tried to speak and the motion was called upon me like it was a little while ago.

The question being taken the Convention divided, and by a vote of 29 ayes to 41 noes, the motion was rejected.

Mr. MURDOCK (Wasatch). Mr. President, I move to strike out section 38. I think it is striking at the interests of the farmers and of associations that are organized in the Territory in different parts for the protection of the price of the products of the soil, and I think when we get to legislating against that class of people, we are making a mistake.

Mr. ROBERTS. Mr. President, among the few virtues that this article on corporations possesses I think that this is the choicest and best of all. The one redeeming feature out of the few that remain in this article on corporations is this section 38. It prevents combination between individuals, corporations, associations, or either, having for its object the effect of controlling the price of any product of the soil or of any article of manufacture or commerce, or of the cost or charge of transportation. Now, sir, I submit that if there is one thing more important than another to the industrial welfare of this Territory, it is to prevent the combination of corporations and associations looking to the control of prices in this Territory. In other words, it is a prohibition of the formation of trusts and combines to check the industrial interests of this Territory; and I sincerely hope that the Convention is not in a temper to destroy this provision. The matter was discussed perhaps incidentally the other day, and yet sufficiently, I take it, to point out the virtues of this section, and certainly it is not my purpose to go over the ground of discussion, but simply call the attention of the Convention to the importance of retaining this article.

Mr. ANDERSON. I would like to ask Mr. Roberts, if this section is retained, would not it prevent the farmers combining as a farmers' union to regulate the price of wheat or any other of their products?

Mr. ROBERTS. It is possible it may do so.

Mr. ALLEN. Mr. President, this will not accomplish what the gentleman intended who made the motion. Take the poor farmer, he is not able to hold his grain and wait for prices, or to regulate prices, but on the contrary. I know that in the southern country, in one section of the country where the merchants got together and agreed that they would only pay so much for grain, they knew that nine-tenths of the farmers of that country were obliged to sell their grain to get shoes and clothes for their children, and to get money to pay their taxes. They knew they would get the grain. There was no other show. Now, you take throughout the Territory, these men that are trying to govern flour mills and different organizations, it is the moneyed men that are able to hold prices in this way and work an injury to the poor man.

Mr. JAMES. Mr. President, I hope this section will not be stricken out, and I think the gentleman from Wasatch misunderstands it. I would like to ask him if he ever knew of farmers combining to hold to their prices, and if they did, when and where?

Mr. MURDOCK (Wasatch). I know there is a similar association in Provo City to-day, existing there as to prices of grain and vegetables.

Mr. ROBERTS. I would like to ask Mr. James if it has ever been found possible for farmers to do that thing?

Mr. JAMES. Why, it seems improbable to me. Now, gentlemen, this provision was put in to protect the farmer. It was put in to operate against such institutions as the big trusts—the elevator trusts that sell millions of bushels of wheat and speculate on it when they never had a pound in their elevator. The beef trust, as you observed to-day, has raised the price of beef to an enormous price, but what does it say to the producer? Why, you find re-

cently, they turned around, and just arbitrarily, in opposition to all that Mr. Morton, secretary of agriculture could do, and out of pure cussedness, lowered the price to the producer, a cent a pound, as much as to say to him, “we will show you you cannot manipulate our affairs and we will manipulate them to suit ourselves.” Now, that is an actual fact, gentlemen, and that is what this provision is put in here for, and if you take the whole of the article that is left now—my friend, Mr. Roberts says, there is not much left, but I am proud of the article, with the exception of one section. If section 7 was regulated so that it would not be misconstrued, we would have a splendid, good article, and this one, in combination with the others, is what hinges the whole business together, and if you strike it out, you are going to weaken the article.

Mr. SNOW. I would like to ask Mr. Roberts if this would affect the farmers’ exchange?

Mr. ROBERTS. My answer is that if it does not affect the individuals, it will affect, and does affect, corporations who could combine unless you had some such provision prohibiting it.

Mr. NEBEKER. Mr. President, I think that the appeal that the gentleman from Wasatch has made to the farmers on this question is not well taken, because it is certainly a fact that farmers have never been able to combine to hold up the price of their products, and one reason for that is because there are too many of us. Now, the question is, as farmers, when we are not able to combine and control the price of our products are we going to stand here and support a proposition that will enable other people to combine and hold up the price of their products? If there is no other section retained in this article, but the first and the last, it is worthy of our consideration.

Mr. BOWDLE. Mr. President, if the farmers could do that thing, I would be

perfectly in favor of them doing it, and perhaps you all remember the great effort that was made all through the eastern states, and in fact through the western states, by what was called the grangers, to accomplish that very object, and they could not do it because of the very fact that they were men that were compelled, as soon as they had the products ready for market, to sell them; their interests were such that they could not hold, and the consequence is that the whole organization has nearly or quite gone to pieces, because they could not accomplish the very object that they they were trying to accomplish; and I do not think that it would help the farmers a particle if we were to leave that in, but it might, as Mr. Nebeker says, work exactly against it.

Mr. CANNON. I would like to ask if this section can be enforced by any action of the courts, where two men or more than that number desire to work together and combine—whether they can enforce it—so that farmers could not get together and regulate the price if they want to?

Mr. BOWDLE. I suppose, Mr. Cannon, that if you and I and any other man were running farms together we could say that we won't sell until we get such a price, and they could not prevent us from doing that.

Mr. CANNON. Then, what is the use of the section?

Mr. BOWDLE. I don't know that it would be effectual. I am not prepared to say that it would, but it aims at an evil, that if we can by any legislation reach, I am in favor of reaching it.

The motion was rejected.

Mr. VARIAN. Mr. President, I want to call attention to line 4 of section 37; in accordance with the suggestion the other day, the word maliciously ought to be inserted in there.

Mr. BOYER. Mr. President, I desire to offer as an amendment to the amendment to section 37 the following: Strike out all of lines 1 and 2, and strike

out the words in six and seven, "or obtained from any other corporation or person." Now, I find that the citizen is sufficiently protected under the article of labor for the securing of his labor, and he is sufficiently protected therein; and striking out the words in lines 6 and 7 will obviate the difficulty that I apprehend might arise.

Mr. VARIAN. Let me suggest that that is not germane to this amendment. This could be disposed of, and then Mr. Boyer's motion, which relates to other parts of the section, might be considered.

The amendment of Mr. Varian was agreed to.

The amendment of Mr. Boyer was rejected.

Mr. THURMAN. Mr. President, before roll call, I desire to say, I have not said one word this afternoon on this article, but I am going to vote against it. There is no virtue left in it. It is completely emasculated of everything that gave it vitality and usefulness; there is not one thing in it that the Legislature cannot do—not one. There is not a single limitation on the power of the Legislature. I shall vote no, and I take this occasion to say that, because I do not believe that men have a right to get up after a roll call has commenced and vote no, and give their reasons for it.

Mr. PRESTON. Mr. President, I wish to say the same. There is nothing to this article now.

Mr. EVANS (Weber). Mr. President and gentlemen, I want to say that I will vote against the article as heartily as anything I ever did in my life. It is, as has been stated, completely emasculated; all the vitality has been taken from it. Every move that has been made in regard to this article on private corporations, one of the most important things we have had to deal with, has been in the interests of corporate power, and I will never cast my vote in favor of such a skeleton as that,

without a single limitation or restriction upon the powers of corporations.

Mr. FARR. Mr. President and gentlemen, I presume you will all recollect several days ago, when this subject was brought up, I had a very important amendment to introduce to this article, and I gave my reasons for it, and I was satisfied when I had read the whole article that the whole business of it could be provided for in that amendment. Now, we have spent two or three days on it, and cut the bill up, and taken from it, so that we can hardly tell what it is. My amendment was to strike out the enacting clause, because there is no enacting clause. I presume when they come to a vote on the ayes and noes that the word no means to strike out the enacting clause. Consequently I shall vote no.

Mr. EMERY. Mr. President, I would like to ask a question in relation to section 10. Will that section prevent any foreign corporation coming to Utah and selling merchandise or any other article, without first filing the articles of incorporation with the secretary of state?

The PRESIDENT. I presume it would affect all companies and corporations.

Mr. EMERY. Then, if this prevails, an agent could not be sent to Utah to sell merchandise without being confined by that provision?

Mr. CANNON. The latter construction is evidently not that that would be placed upon it. This provides that no corporation shall do business in this State. In other words, they shall not come in here and have an office or something of that kind and pretend to do business, and yet have no place where you might serve process upon them. It is customary in all states to have a similar provision to this.

Mr. EMERY. If that is as far as it goes, I have no objection to it, but if it would prevent a gentleman coming

and selling merchandise for another corporation I think it goes too far.

Mr. MALONEY. Mr. President, I will say the gentleman need have no fears on that score. It is not intended to prevent anything of that kind. I trust the Convention will adopt this article. The first section is certainly worth voting for. The conclusion of my friend over there and colleague from Weber County is too hasty that he will vote against the article. I think there are some things in the article that should be sustained, and therefore I will vote for it.

Mr. EVANS (Weber). Is not it a fact that it will require a majority of all the members elected to this Convention to pass this article now?

The PRESIDENT. I believe under the rule that would be the case.

Mr. IVINS. Now, gentlemen, I wish to call attention to this condition that confronts us. I think there is a great deal of good left in this article yet. I know that there has been an effort made all over the floor of this house to prevent its passing, and I want to get up here and say publicly what has been said privately, and I hope that men will stand by their previous vote and that this measure will be passed. [Applause.]

Mr. VARIAN. Mr. President, I move we adjourn.

The motion was rejected.

Mr. JAMES. Mr. President, I want to say a word. I am not pandering to the favor of any individual living. I care but very little whether gentlemen on this floor attempt to do a thing that will reflect an injury on the public and the people or not, but I do rise here, Mr. President, to say a word of encouragement to the manly position of the gentleman from Washington County. I knew this thing was going on around this room this evening before he rose from his seat and made the announcement. It came to me, that if we cannot carry our point we will put our

foot on this business and destroy the whole thing. Now, Mr. President, that is all I wish to say, but I do not wish to be misunderstood.

Mr. ROBERTS. Mr. President, I take the position that this article has been mutilated in some of its most important parts, much of that that is left, or so that that which is left is of but little or nouse for the purposes for which it was designed. I not only take exceptions to some of the mutilations of this article, but I also take exceptions to the arbitrary manner in which discussions of some parts of it have been enforced, and that there ought to have been opportunity afforded for discussion of some of the measures, which by parliamentary railroading was excluded, and I say frankly, that until an opportunity is granted to consider some parts of this article, that we were prohibited from properly considering, I shall vote against what parts are left of it.

Mr. BUTTON. Mr. President, I move we adjourn.

Mr. EVANS (Utah). I arise to a point of order. There has no business been done since the motion to adjourn was killed.

The PRESIDENT. The gentleman's point of order is well taken.

The roll was then called on the article, with the following result:

AYES—49.

Allen	Larsen, L.
Anderson	Lemmon
Barnes	Lowe, Peter
Bowdle	Lund
Brandley	Maloney
Button	McFarland
Cannon	Murdock, Beaver
Chidester	Murdock, Summit
Christiansen	Nebeker
Clark	Page
Coray	Partridge
Crane	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Robertson
Emery	Robinson, Kane
Green	Robison, Wayne

Heybourne	Snow
Hill	Squires
Howard	Stover
Hyde	Symons
Ivins	Thompson
James	Varian
Jolley	Wells
Kimball, Weber	Williams.
Lambert	

NOES—26.

Boyer	Kimball, Salt Lake
Call	Maeser
Corfman	Morris
Creer	Murdock, Wasatch
Cunningham	Preston
Engberg	Ricks
Evans, Weber	Roberts
Evans, Utah	Sharp
Farr	Thatcher
Hammond	Thoreson
Haynes	Thorne
Halliday	Thurman
Johnson	Whitney.

ABSENT—31.

Adams	Low, Cache
Buys	Mackintosh
Cushing	Maughan
Eldredge	Miller
Francis	Moritz
Gibbs	Peters
Goodwin	Pierce
Hart	Raleigh
Hughes	Richards
Kiesel	Ryan
Keith	Shurtliff
Kearns	Spencer
Kerr	Strevell
Larsen, C. P.	Van Horne
Lewis	Warrum.
Lowe, Wm.	

During the roll call, the following statements were made:

Mr. RICKS. Mr. President, I wish to change my vote from aye to no, with notice that I will move a reconsideration if this article is lost.

Mr. KIMBALL (Salt Lake). Mr. President, with prospects of reconsideration, I will vote no.

Mr. ROBERTS. Mr. President, I

arise to a point of order on these gentlemen changing their votes. I hold, sir, that we are now on the final passage of this.

The PRESIDENT. A man can change his vote at any time before the declaration of the result.

Mr. ROBERTS. My point of order is, that it would be out of order to reconsider this matter and ask for a ruling on that question.

The PRESIDENT. The chair would rule that the gentleman is out of order.

Mr. ROBERTS. I appeal from the decision of the chair.

Mr. THATCHER. Mr. President, he did not understand you. There is no gentleman on this floor that does not understand that a person voting in the affirmative on ordinary questions, may do so for the purpose of reconsideration, but the point of order is whether an article on its final passage can be reconsidered.

Mr. ROBERTS. That is it.

The secretary then announced the result of the roll call.

Mr. THURMAN. Mr. President, I arise to a point of order. There is no motion before the house to reconsider. There is nothing for the chair to rule upon. The gentlemen simply gave notice, or stated that they changed their votes for that purpose. There is no motion before the house.

The PRESIDENT. The result of the vote is 49 ayes to 26 noes. The gentleman gave notice he would call for a reconsideration to-morrow.

Mr. VARIAN. Mr. President, I move we adjourn.

The motion was agreed to, and the Convention then, at 5:50 p. m., adjourned.

FIFTY-EIGHTH DAY.

TUESDAY, April 30, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Murdock, of Beaver.

Journal of 57th day's session was read and approved.

Mr. RICHARDS. Mr. President, I desire to present a communication from J. G. Sutherland and others.

The PRESIDENT. The secretary will read.

Mr. KIMBALL (Weber). Mr. President, I move to lay that communication on the table. We have not sent to those gentlemen for any communication or advice as to what we should do. It was read yesterday as a part of Mr. Richards' remarks.

Mr. RICHARDS. Mr. President, I think this communication is entitled to respectful consideration by this Convention.

The motion was agreed to.

The committee on schedule, future amendments, and miscellaneous, reported an article for insertion in the Constitution, which was ordered printed and referred to the committee of the whole.

Mr. MURDOCK (Beaver). Mr. President and gentlemen of the Convention, I know it is a very delicate matter to occupy the time of this august body, but there is a matter that I want to get the sense of the body about to see whether there is any sympathy here for the purpose of the interest of water and irrigation and agriculture. The agricultural portion has not been reported, and I think—

The PRESIDENT. The gentleman is out of order.

Mr. CHIDESTER. Mr. President, there was a communication or an invitation presented to the Convention yesterday that was laid on the table. I desire to make a motion to take that from the table, inasmuch as the time is drawing nigh when they expect to hear from us. We should either decline that or accept it, one of the two.

Mr. SQUIRES. Has the gentleman

from Garfield any information as to who tenders this invitation, so that we can make any response?

Mr. CHIDESTER. The invitation is genuine, from the ladies of Salt Lake City.

Mr. SQUIRES. You have information to that effect?

Mr. CHIDESTER. Yes, sir.

Mr. PRESTON. Mr. President, I asked yesterday to lay it on the table, hoping to get some name of somebody who was giving the invitation. It is rather singular an invitation in blank of that sort should come to this honorable body. Unless someone knows it is someone who is responsible—

The PRESIDENT. The gentleman assures us that he does.

Mr. ROBERTS. Mr. President, I am not satisfied even with the assurance of the gentleman. If the ladies of Salt Lake wish to tender a reception to the Constitutional Convention, I think they owe it to themselves and they owe it to the Convention to send a communication here that is properly signed. I think it would be perfectly improper to reconsider the action of yesterday on this question. If a mistake has been made by the ladies sending this communication, if they had seen it, it is an easy matter for them to correct it by sending an invitation here that is signed by responsible parties. They owe it to this Convention and to themselves to do that. Therefore, I am opposed to reconsidering this matter.

The motion was agreed to.

Mr. HART. Mr. President, I move that it be accepted.

Mr. EICHNOR. Mr. President, I should expect that the ladies who may have sent that communication—but I think it is due to this body that some name should be attached to that document. If we are going to be treated as school boys, why, let us act as school boys, and not act honorably at all and go up there.

Mr. CRANE. Mr. President, the ladies,

I have been informed by two or three yesterday, were afraid to attach their names to it, thinking that some of the members here who were opposed to woman's suffrage would think it was a scheme to revivify some other article that has been acted on in the past.

Mr. EVANS (Weber). Mr. President, I move an amendment to the amendment, that the communication be referred back to the person who sent it here, for the purpose of attaching proper signatures.

Mr. CHIDESTER. Mr. President, I think they are more particular with this matter than others that have come before the Convention—a great deal. I think it is all technicality, and the ladies desire to know whether we would accept it. They have been to some expense, and if not accepted, why, let us lay it by and stop further discussion. It will take some time.

Mr. FARR. Mr. President, as we have taken this up from the table, the next question is, whom we should address. I move that we write to all the ladies of Salt Lake, accepting the invitation.

Mr. EVANS (Weber). Mr. President, I cannot vote to accept this invitation without any signatures. I will not. I don't think it is right in principle. We referred two or three communications back—one I know at least that wasn't signed, and I think that precedent ought to be followed. Certainly the petitioners I believe sent it here in good faith; it ought to be accepted, but we ought to have some record of the fact as to who it is that invites us to this festivity.

Mr. SQUIRES. Mr. President, in order that we may get some light on this subject, I wish Mr. Richards of Salt Lake would tell us if he knows anything about it. His wife, I understand it, is connected with one of these suffragist societies, and he would be likely to have information on that subject,

whether this invitation is genuine or not.

Mr. RICHARDS. Mr. President, I hope it will not be presumed that because my wife is connected with the suffrage association, that I know all about all anonymous communications sent here. I will say that I know nothing of this communication. My wife does not send out anonymous communications. I do know, however, that there is a movement on foot by a number of the leading ladies of this city to prepare a reception and entertainment for the members of this Convention and its officers. I do not understand how this communication came here or by whom it was sent. It was, I am sure, inadvertence, and I am also sure, or feel confident, that before this day is past, you gentlemen will receive an invitation signed by some persons who will be responsible for it, on this subject.

Mr. HART. Mr. President, with that explanation from the gentleman, I move we postpone the consideration of this matter until this afternoon.

Mr. RICHARDS. I second the motion for postponement.

The PRESIDENT. The question really is on Mr. Evans' motion.

Mr. HART. I understand the motion is on the postponement now. Here is a motion and an amendment to it, and now comes the motion to postpone both.

Mr. VARIAN. Until after the final adjournment.

Mr. HART. I mean until this afternoon.

The motion was agreed to.

Mr. MURDOCK (Beaver). Mr. President and gentlemen of the Convention, it has been thought by myself, and perhaps some of the committee, that we disposed of the water interest that was presented here some time ago rather hastily. And I thought if there be sympathy enough upon this floor in the members, that it could be reproduced again through the committee, or by

some other means, that you were willing to admit, which I presume is a little out of the general order, I should be pleased so to do so, if not, why, I want to find out whether there is any sympathy or not. If there is not, why, we want to, of course, dismiss the case. There is one portion of the labors of that committee that has not been reported, that is on agriculture, and I presume it might be brought in under miscellaneous, perhaps, and if you felt that we might reproduce the water interest again, I should be very pleased to do it. Several of the members of this body have spoken in this way, that they thought, perhaps, it was disposed of rather hastily. I will move that through the committee, or otherwise, as we may provide, the interest of water and irrigation and agriculture be reproduced again.

Mr. RICKS. I would suggest to the gentlemen, if they wish to introduce a new article on irrigation, that they submit it as an amendment, or as a separate section, when the miscellaneous article comes before the assemblage. To save time, it can be done in that way. When the article that was submitted here this morning on miscellaneous comes up for consideration, any section you may wish to introduce on irrigation can then be introduced, and save taking up the time of the Convention now. It can be done just as well in that way, and, in fact, much better.

Mr. JAMES. Will Mr. Murdock include in his provision, mining?

Mr. MURDOCK (Beaver). Yes, sir.

Mr. HART. Mr. President, I am opposed to passing a motion of this kind. It may involve us in the situation of reconsidering both of these articles. I am not opposed to a motion to reconsider, if it is made in that way, because it will then require a two-thirds vote. If we pass this motion, we may be in a situation of being compelled to consider both those articles again.

The motion was rejected.

The Convention then proceeded with the third reading of the article entitled public lands.

Section 1 was read.

Mr. THORESON. Mr. President, I have an amendment to section 1, if it is in order. I move to insert, after the word "off" in line 15 of said section, the following: "Except sections 16 and 36, school lands, which may be sold to the occupants thereof at the value of such lands prior to their occupancy and without regard to improvements upon or adjacent thereto." My reason for asking that this amendment be made to said section is to protect settlers upon these sections, many of them having settled upon those lands prior to their knowledge of their being school lands, and after the same had been surveyed. Before the year 1869, the establishment of the land office in this Territory, the settlers of the Territory had little knowledge, if any, of the surveys of the United States, and in good faith they entered upon those lands, and many of them have built homes and cultivated the lands and improved them. After the establishment of the land office, and some surveys, and a knowledge of surveys becoming general, they ascertained that they were in a condition that they could not purchase these lands from the general government, and they have retained possession of them up to date. Our Legislature, I believe in 1890, passed a law authorizing counties to lease these lands to settlers upon them. In our county, the occupants of these lands leased them and have continually paid lease money upon them from that day up to the present time. This lease money has gone into the public treasury, and was intended for the benefit of the common schools of the Territory.

Mr. EVANS (Utah). Don't you think that section 4 of this same article will cover your objection? Perhaps you haven't it in your book. It was put in

as a separate section here when we passed this in committee of the whole.

Mr. THORESON. That covers part of the objection, but not entirely.

Mr. SNOW. I would suggest to the gentleman from Cache that this amendment is not germane to this section. If he wants it to apply to the school lands, it should apply to section 3.

Mr. THORESON. I will agree with the gentleman; I was not present at the time this article was passed by the committee, and I didn't know of this amendment. I will withdraw it for the time being.

Mr. ROBERTS. Mr. President, I wish to call attention to the amendment made in committee of the whole. I thought perhaps that in my marked copy I was mistaken, but conferring with other gentlemen, and especially the chairman of the committee on public lands, I discover that there is quite a material difference in lines 14 and 15 as read by the secretary and as we have it in our marked copies.

The PRESIDENT. Do you move to amend?

Mr. CANNON. Mr. President, I have an amendment to offer. In line 14, after the word "value," I move to strike out the word "of," and insert the word "on."

Mr. MALONEY. Mr. President, I have an amendment, after the word State, in line 17, insert the following: "sections 16 and 36 to be valued as of the date of settlement thereon."

Mr. KIMBALL (Weber). Mr. President, I move to amend that by adding "where settlement was made before survey of the lands."

Mr. MALONEY. I will accept that amendment. I think I will leave it just as it is.

Mr. KIMBALL (Weber). Mr. President, I move to amend by adding "provided, settlement was made before government survey of the land."

Mr. EVANS (Utah). Mr. President, I would suggest that those amendments

would come more properly on section 4, when we reach it.

Mr. THORESON. Mr. President, I hope the amendment to the amendment will not prevail, because most of this land that is now settled—the knowledge of the surveys did not exist in the Territory. If settlement was made prior to survey, they could have obtained patents from the United States, and we have no such lands, because they would get patents if they could prove up settlement prior to survey; but it is lands settled on after the survey, without the knowledge of such surveys by the occupants or the settlers.

Mr. CREER. Mr. President, I shall be obliged to vote against this amendment, unless it should be considered in connection with section 4, which deals, as I understand it, with the subject of school lands. It seems to me it ought not to be interjected here, but it would come properly in section 4.

Mr. CANNON. I would like to ask the gentleman from Cache if there are many such cases, of settlers upon school lands, among your acquaintances?

Mr. THORESON. Yes, sir.

Mr. CANNON. I would like to ask also how those lands have been sold for the last ten years or longer compared with other lands which are not school lands? What would be the price relatively where they are sold?

Mr. THORESON. Mr. President, while I am not connected with many sales of that kind of lands—by simply passing possession.

Mr. CANNON. I understand that, but about the price—

Mr. THORESON. The price in our part of the Territory has been very low—about one-third of the real value of the land. I wish to say in connection with that, that prior to the year 1870, and some time after, these lands have been taxed for these people and they have paid taxes on them.

Mr. IVINS. Mr. President, in our

country, to my certain knowledge, school lands have been sold and taxed just as high as any lands that adjoin them. Within the last year I have paid fifty dollars an acre for school lands—the lands that were occupied long before they were surveyed by the government, and have been handed down by quit claim deeds ever since, and the price is just as high as adjoining land, which has been patented, and they have been taxed just as high.

Mr. CANNON. Mr. President, I am opposed to this amendment, for the same reason stated by the last gentleman. Many speculators bought these lands, who were not the original occupants, knowing full well they were school lands, and whatever price they paid for them was with the understanding that the title was not a perfect one. I do not think we should divert from this school fund as large an amount as would be taken by this motion. I have in my mind now one section, on the brow of this hill, which is one of the finest tracts of land in this county. It is a tract of land that would sell for in the neighborhood of a hundred thousand dollars, and which, under this rule, would go for a song. That has been bought by speculators. I used to own a piece of it myself. I know exactly how the land was always held. I know how the title was always considered. There is not a house upon it. The people there understand and have understood ever since the land office was established here that that was school land and wasn't a class of land upon which perfect title could be obtained, and it was sold for about one-tenth of its value in the case to which I refer. Now, to say to those people who have been in possession of that land, who came in after all these years, and they have been using it, cultivating it, etc., and not paying taxes upon it—which they have not been doing, except upon improvements where they have had any, and to allow them

to come in now and pay the original price, I say would be an injustice to the school fund. Now, there may be cases where actual settlers have located upon lands, and where injustice will be done to a certain extent, but it must be a general rule which should be applied. We cannot take isolated cases. We cannot apply it so that it will be perfect in its workings. I would be glad myself if we could so fix it that people who are in the condition referred to by one of the gentlemen, who settled upon lands prior to their survey, and who in good faith believed they were settling upon land open to entry, if they could be protected in their rights, but I believe it is not a good thing to lay down this rule in this form. I think section 4, prepared by the committee on school lands, covers the question with sufficient clearness.

Mr. SQUIRES. Would Mr. Cannon be willing to vote for an amendment of this character: Provided that only those who have been constant residents upon those lands from the date they were settled on should be excluded?

Mr. CANNON. I would, provided it were modified in the manner proposed by the gentleman from Weber (Mr. Kimball), and then the amendment proposed by Mr. Squires.

Mr. SQUIRES. That is the kind of an amendment that would suit me, and that would take the speculators out of the proposition.

Mr. CANNON. Section 4, I think it is numbered as it now is, places this matter in such a way that people who were actual settlers will get the benefit of it. In case of university lands the same condition exists all over this county, and those lands were sold at a pretty fair price, and they have brought a good fund to the university, and I say it is only right for the people to get the benefit, and the schools, of the money which those lands are worth. The officers mentioned in section 4 are elected by the people. It is natural

that they would select men of character who would look after the interests of the people, and protect them as far as lies in their power. I am opposed to the amendment.

Mr. CHIDESTER. Mr. President, I am opposed to the amendment offered by Mr. Kimball, for the reason that it does not amount to anything to people that settled upon lands that were surveyed, and that make an entry now, but it is for the benefit of those who have been settlers upon school lands and made it what it is—taking out water ditches, and help to develop the country, and make it possible to realize something out of school lands. I know of many poor people that are now settlers upon them, and these people have been taxed ten dollars an acre on the school lands, while the others have been taxed fifteen. It has been found necessary to tax them in this way, in order to have a revenue in some of the small counties. There is only a small portion of the land that is surveyed, and they, of course, have not made as many improvements as they would have done, if they would have known how this matter was going to terminate. That is true, but I do not think that we should now pass a measure that would hurt the poor people, because I know that it will; I know that there are poor men that have settled upon school lands, have been almost compelled to settle upon school lands, and have made a scanty living upon it, and now, if they were compelled to pay the high price for that land, would be turned out of house and home.

Mr. ELDREDGE. Those parties that you speak of, were they the original locators on those school lands, or have they acquired them by purchase?

Mr. CHIDESTER. No, sir; in the first place they were—the original settlers were driven away by the Indians, and other settlers came back and scattered around over the country and reclaimed

it a second time, and some of them have starved out and other men have come in and taken up the land, and have been in that condition from that day to this.

Mr. THORESON. Mr. President, I am opposed to this amendment and the amendment to the amendment, for the reason that this places the value upon the land which is not occupied at the same rate as upon that which is occupied. My intention was only as was stated by the gentleman from Garfield, to protect the people that have settled in good faith upon these lands and have improved them, and not make a price upon all these lands and sell them to anybody, and for that reason I am opposed to the amendment and the amendment to the amendment, because that does not touch the subject. It is not only to apply to lands that were settled prior to survey—because any one having settled upon those lands prior to the survey can make entry upon them at any time.

Mr. RICHARDS. Have you an amendment prepared covering the point that you suggest?

Mr. THORESON. I withdraw it until section 4. I do not think it is germane here, anyway.

The amendment offered by Mr. Kimball, of Weber, was rejected.

Mr. MALONEY. Mr. President, the amendment proposed by me is intended to cover only those who have actually made their homes. I wanted to make it as brief as I could, but that is the intention of it—actual locators.

Mr. RICHARDS. I desire to ask the gentleman what is the effect of it.

Mr. MALONEY. To protect those who have made their homes and have been there since the time when the memory of man runneth not to the contrary.

Mr. RICHARDS. It seems to me it may reach further than the gentleman intends.

The amendment offered by Mr. Maloney was rejected.

Sections 2 and 3 were read.

Mr. HART. Mr. President, I desire to call attention to the wording of the last part of that section, as to value and quality. It seems to me that there is no difference between those two terms. I think it should be quantity and value. I move to strike out the word quality and insert quantity.

Mr. CANNON. Mr. President, I hardly think that would apply, because the quantity that is given for different funds is entirely different and, as I understand it, it would have an improper application in this case. You could not give the same amount to the university, for instance, as to the agricultural college, nor for the common schools as for the school of mines, or any of these other institutions.

Mr. HART. Mr. President, I think the amendment would be all right. Supposing there is not sufficient lands in the Territory of which to make the allotment to all these institutions if there should be some shortage then the shortage should be proportionately deducted from all the land grants, and the word value certainly covers the word that is now in there, "quality." Mr. President, I think the word value covers both ideas there, and I think the word quantity should be inserted. That would be taken in connection with the word proportion, used in the previous part of the section.

Mr. CREER. Mr. Chairman, I do not agree with the gentleman that the word quality should be stricken out, because it seems to me that that is very important, because the exact amount of acreage is described in the Enabling Act, where the grant is made for each of the purposes mentioned. Now, it seems to me there ought to be a proportion of the quality of lands given to various classes for which grants are made, and it seems to me to simply leave the word value in there, it does not cover it; that each of these pur-

poses should have a pro rata of the quality of the lands.

The amendment was rejected.

Section 4 was read.

Mr. EVANS (Weber). Mr. President, I desire to offer an amendment to be added to the section just read, as follows:

Provided, the bona fide occupants on such lands prior to the year A. D. 1870, may be disposed of to such occupants or their grantees at the sum of one dollar and fifty cents per acre, together with interest added thereto at the rate of three per cent. per annum from said date.

Mr. THORESON. Mr. President, I now offer my amendment to be added to the section, "Provided that sections 16 and 36 of school lands may be sold to actual occupants thereof, at the value of such lands prior to their occupancy."

Mr. CANNON. Mr. President, I would like to ask the gentleman from Weber a question. The amendment proposed provides that bona fide occupants of such lands prior to the year 1870 may be disposed of.

Mr. EVANS (Weber). To their occupants or grantees.

Mr. CANNON. You would not dispose of the occupants, would you?

Mr. EVANS (Weber). I would dispose of the lands.

Mr. JOLLEY. I trust, Mr. President and gentlemen of the committee, that we will not judge this whole matter in relation to school lands by the section referred to by the gentleman from Salt Lake awhile ago. We have in the north and in the south actual settlers upon school lands that have been there for forty years and that have irrigated, have made miles of ditches, until to-day if the land was to be sold at what it is worth, with all the improvements taken off, even at the present date, there would be widows, orphans, and poor people by the score that would be driven out from under their roof, and would lose all that they possessed. This should not be, and the gentleman

on my left here (Mr. Squires), from Salt Lake referred to an amendment to be added that those that actually live thereon. Well, this would not cover all the emergencies, for the simple reason that the people of Utah Territory have settled in towns and villages and cities—

Mr. CREER. I think the gentleman must misapprehend the section. The section as introduced does not contemplate selling them at their value now, but simply at their value at the time of settlement.

Mr. JOLLEY. I am agreeable to these amendments. Either will answer, I think, or at least lighten the hardship that will be brought upon these people, and as I was going to say, those that own lands don't always live right upon them. They live in the town or village, on land or property adjacent thereto, but they have cultivated them and until to day, if the water was taken away from them and all the improvements taken from them, the land would be very valuable in the future, for the simple reason that the soil is saturated with water and age has made it very useful, and they cannot afford to pay the price that it is worth to-day, and I appeal to the committee upon the floor to consider these things for the benefit of the poor people that own the homes. For some of these sections lie in the very heart of our fields, that they have cultivated for the last forty years, and a great deal of it to-day is owned by widows and orphans that are not able to pay such prices. I therefore trust and hope that one of those amendments will prevail.

Mr. SQUIRES. Which one?

Mr. JOLLEY. Either one will do me.

Mr. ANDERSON. Mr. President, I am opposed to both of these amendments. I think the section is all right the way it is. The settler is amply protected. If these amendments pass, why, it will make a great inroad into

our school fund. The United States law provides that if a settler settles upon land before it is surveyed—that is, if he actually resides there—if he builds a house and makes his home there, other lands will have to be selected for school lands. I know this, because I have been in the government survey business for several years. The man that surveys the land is instructed, if the man is actually a resident on that land, if he has a house upon it, and lives there at the time of the survey, to select other lands for school lands. In all such settlers that were on the land at the time the survey was made—other lands were selected. Of course, if they did not live on the lands and were not occupying them, they were not actual settlers; they were not complying with the land laws of the government.

Mr. HART. Will the gentleman permit me a question? How about a situation similar to that that exists in Cache, where the survey was made at quite an early date, but when the settlers located there, they did not know anything about the surveys, and they settled upon these lands without any knowledge of being on school sections, and it was some ten years or more afterwards before they knew of the surveys? What about the justice 'to a class of people like that, under your provision?

Mr. ANDERSON. I think it was their duty to have found out, and I think that the majority of the people who settled upon school lands knew that they were school lands, and to-day there are but few occupying the school lands that settled upon them originally. They have been sold, and resold, time and time again, and I think that if these amendments pass, it will seriously affect our school fund. Therefore, I approve the section as it now stands.

Mr. JOLLEY. You do not think it would be right to rob the orphans and

the widows for the benefit of public schools, do you?

Mr. ANDERSON. I do not think that it will rob them. I think that they knew the lands were school lands when they settled upon them, and they accepted those conditions.

Mr. JOLLEY. How could they know that they were school lands when they settled upon them, before there was any survey—forty years ago?

Mr. ANDERSON. If they lived upon them at that time, if they complied with the land laws, other lands would have been selected, but the consequence is they did not live on them, they were using the lands without settling on them.

Mr. HUGHES. Mr. President, I am acquainted with the school sections where I live. It has cost in the neighborhood of fourteen thousand dollars to get water on them, and to-day the land adjoining it can be bought for seven dollars an acre, and I endorse the remark of Mr. Jolley, in relation to that, that I do not consider that it would be right to rob the poor people and to swell our school fund.

Mr. LEMMON. Mr. President, as I understand it, there are two classes of settlers on these school lands, some who have settled upon school lands before it was known whether they were school lands or not. Now, I think Mr. Evans' motion is the proper one. It secures them in the right on that land at a nominal price. There is another class of people in this country that have, in the last few years, under the territorial law, taken up a lease of land, and I have in my mind one party that leased three quarter sections, right in the heart of our country. Now, if that man is allowed to buy that at \$1.50 an acre, I think it would be an injustice, while I think that the people who have settled upon them in an early day—it would be the right thing to do, and there ought to be some plan to dis-

tinguish and separate the classes of people who settled upon those lands. People could not find out in early days where the lines were. The surveys were not known anything about until about 1859, consequently it would not be right to deprive them of their rights.

Mr. THORESON. Will the gentleman allow me a question? These lands that have been taken possession of within the last few years, in fixing the price, it would average much more than \$1.25 per acre, would it not? That is, when they entered upon these lands, in the last few years, they were worth much more than that?

Mr. LEMMON. Yes, sir.

Mr. THORESON. My substitute—the amendment to this section provides that they shall provide for every section full value at the time they went on these lands.

Mr. LEMMON. I think that class of people ought to pay more, but I believe those who settled upon them years ago, I do not know about them—ought not to.

Mr. MAUGHAN. Mr. President and gentlemen of the Convention, I hope that none of these amendments will prevail. I think it would be an injustice to those that do not occupy those school sections, and I stand here as one of the pioneers of Cache County, that went into that county in the fall of 1856. I know that our people located upon 16 and 36, in township 11, 1 west; we did not know it was school lands, but at the same time there is a dwelling upon either 36 or 16 in township 11, there is not a dwelling upon 36 nor 16 in township 10, 1 west, and it would be unjust for these amendments to prevail. It would be not only unjust to the school fund and the interests of education, but it would be unjust to these men that did not occupy these lands. Why, we have had to pay the government price; we have had to exhaust our homestead right; we have had to pay the railroad here, that you know got alternate sec-

tions, as high as \$16 an acre—one of the most unjust things that ever was permitted, but still these are the difficulties of men and these are the sacrifices that we have had to make in order to obtain legal titles to our lands, wherein we could build our homes permanently. I was not aware, until I heard Mr. Jolley and some others, of this one fact, that all the orphans and widows of this Territory were on school sections. [Laughter.]

Mr. JOLLEY. Mr. Chairman, I resent the accusation. I did not say that.

Mr. MAUGHAN. I withdraw those remarks.

Mr. THORESON. Do you know of a number of people right in your country that are in that situation that Mr. Jolley referred to?

Mr. MAUGHAN. No; I do not.

Mr. THORESON. Well, I do; I do, gentlemen.

Mr. MAUGHAN. I claim that the citizens of Wellsville precinct, occupying to-day 36, township 11—if there are two widows or two orphan children—

Mr. THORESON. Is it not a matter of fact that you once occupied some school land and disposed of it?

Mr. MAUGHAN. I got rid of it very quickly because I knew there was no title to it.

Mr. CANNON. Did not the man to whom you sold know that the title was not perfect?

Mr. MAUGHAN. He did, sir.

Mr. CANNON. And that it was school land?

Mr. MAUGHAN. And he paid me a price accordingly.

Mr. JOLLEY. I want to ask Mr. Maughan if you know of all the men that settled upon lands forty years ago to be living. [Laughter.]

Mr. MAUGHAN. No, sir; and I do not think you do, either. I say that the interests of the schools, and irrigation, and reservoirs, and everything else, can just as well be left to this commission, and to future legislation.

Mr. CUNNINGHAM. Mr. President, I am opposed to all these extravagant prices of school lands. I had rather that the school fund would suffer than many of the poor people that have settled upon these lands, considering the circumstances surrounding them. For instance, a great many of those school lands were settled on by people thirty or forty years ago in the southern part of the country here; they were driven off of these lands by Indian raids. The people were driven into settlements, and it was impossible for them to reside on those lands; also you are all aware of the state of the country, that in many of those districts there is no water to be found for actual residents to settle on to live there continually. Probably in the school section the water would go there once or twice in a month, and it is impossible in some cases for the people to have resided on those lands. The Legislature of 1892, in making regulations for the sale of the university lands, took these circumstances into consideration. They provided that those who had improved those university lands should have a first claim on those lands, as well as those who had resided on them. I think this would be nothing but justice.

Mr. ANDERSON. Mr. President, I would like to ask the gentleman a question. Could a man secure a homestead entry without living on it?

Mr. CUNNINGHAM. No; he could not.

Mr. ANDERSON. Would it be any more just that he secure the school land?

Mr. IVINS. The gentleman from Utah has called attention to a fact that I thought ought to be understood by this Convention. It is very true, as Mr. Anderson has said, that actual residents upon school lands at the time of their survey had a right to secure a government title for them; but every one that is acquainted with conditions

that existed thirty years ago in this Territory, knows that it was impossible for people to go out and live upon those lands. Indian depredations in Sanpete County prevented it; they prevented it in Washington County; they prevented it in nearly every other county in this Territory; and I know, gentlemen, that in 1862, lands were surveyed upon the Santa Clara in Washington County, by the county surveyor; they were laid off in five acre lots; they were properly platted; surveyor's certificates were given to the original settlers upon those lands, and those titles have been handed down successively until to-day. Later, when they were surveyed by the government, of course, it was discovered that many of the pieces of those lands were in school sections. They have been continuously occupied. Now, it does not seem to me that it would be proper that those occupants should be required to pay an extravagant or exorbitant price for those lands. I think they ought to pay a reasonable price; they ought to pay whatever it would have cost them to have secured a title from the government at the time the lands were surveyed, and they ought to pay the interest on the money, I think, from that time until now.

Mr. MAUGHAN. I would like to ask the gentleman a question. Will not our future Legislatures through this land commission have the right to adjust these matters to the satisfaction of the owners?

Mr. IVINS. Yes; and they would have a right to adjust it so that they would have to pay fifteen dollars an acre if they wished to; that is the difference. Now, I want to say another thing for the benefit of the gentleman from Cache, that I have in mind now, on one of those school sections on the Santa Clara bottom, three widows own farms; their husbands have worn themselves out on the same land and died, and their estates own them, and they

have been farmed every year from 1862 until the present, and I want to tell you another thing, that they have been taxed just as high as land adjoining them, because I have assessed them myself year after year, and the lands have all been taxed just alike. The people have borne an equal burden with their neighbors, and they ought to pay an equal price with their neighbors, for the land, and no more—that is, the land occupied under such conditions. Now, gentlemen, I don't wish to be understood that I believe it proper to enact anything here which will give an opportunity to speculators who have bought up in recent years school lands that were valuable, and known to be valuable, and reap a profit at the expense of the school fund; but these settlers and their successors ought to be protected, and I will certainly vote for something here which will protect them.

Mr. EVANS (Weber). Mr. President, I want to say something about this amendment that I offered. I should like to offer something more favorable to those settlers than I have done, but if nothing better can be secured—

Mr. ALLEN. I would like to ask Mr. Ivins a question. Do you think it was legal for you to tax those poor widows you speak of on that land?

Mr. IVINS. Yes, sir; I do; we taxed improvements on the lands; they were raising just as good crops off of that land as other people were, getting just as much benefit, and our courts ruled that it was proper that they should pay a tax.

Mr. ALLEN. You have not answered my question. I ask you if you think it was legal to tax that land?

Mr. IVINS. Why, yes; or else I wouldn't have done it. We have taxed it and collected the tax. We taxed the improvements on the other land and we tax the land. That was just the difference. The law gave me a right to tax the improvements and to tax the land, and I taxed the improvements

twenty dollars an acre in the school sections and the land at twenty dollars an acre outside. That is the way we did it.

Mr. ALLEN. Then you taxed the improvements higher on that person's land than you did on the neighbors that own the land?

Mr. IVINS. We did not tax the improvements on the other fellow's land. If you want to get at the actual facts in the case, we construed the law in the manner that we did, because, in the first place, we needed the revenue, and in the second place, we thought we had a right to get it that way.

Mr. EVANS (Weber). Mr. President and gentlemen, as I started to explain before the interruption of the gentleman, I want to explain this amendment which I offered, and I say again that I am willing to go further in the interests of these bona fide settlers than this amendment proposed, but believing that we cannot go any further I propose this and shall urge it.

In 1869 the land offices were opened in Utah. Up to that time there were no plats of any of the surveys which had been made; people never knew when they settled upon those lands whether they were upon school lands or whether they were upon government domain. They settled upon them in good faith, honestly and bona fide and made their homes upon them—hundreds and thousands of such cases exist everywhere in Utah, and no gentleman can dispute that. Now, I believe in fixing a nominal price for that land. I would rather say a dollar and a half per acre and leave out the interest altogether, and leave all these people, who have settled prior to 1870, their lands at that price. If this amendment goes through, with the interest, it will amount to four cents and a half interest per annum, for twenty-five years, it would amount to \$1.12½ per acre, making the total that the school fund would receive of \$2.62½. If a man gets

title to a quarter section of land, he will have to pay four hundred and twenty dollars for it—a considerable sum.

Now, gentlemen, remember that these people who have these lands are generally poor people. They are farmers and they ought not to be oppressed, and it will not do for gentlemen to stand upon this floor and say, "we want to replenish the school fund," when the replenishment of that fund will be to the injury and robbery of those people who have honestly settled upon these lands. I would rather the school fund would have nothing out of them than to rob any honest individual who had settled upon this land, believing it to be government domain. Let us do it right. Let us be fair with these settlers. It is due them, that we should be fair and I shall urge this amendment.

Mr. HAMMOND. Mr. President, there are two sides to this question. I am in favor of this amendment of Mr. Evans, of Weber, so far as it goes. I would let those people have their lands at government price—at whatever they were worth at the time of their settling upon them, and we want to take care of these widows of Brother Jolley's, and the orphans. I would not, for the life of me, put anything in the way to injure them. But there is another gentleman, not a widow, that I would like to take care of also, and that is the speculator. I know that they jumped onto these school lands and farmed them and skinned them for years and got nice ranches—their home ranches. They are well to do. That is the gentleman we want to look after, that we may not have him in his abundance rob the school fund. Now, that is where I stand. I want to take care of the widows and the orphans, but at the same time look after the speculator. Now, men talk about being conversant with the land business. I claim that I was one of the first settlers here, and I

never had one grant of land from Uncle Sam in my life, except a lot out here in the Eighth ward. I never took up and completed a title to a quarter section in my life except—no, I did not complete that. I filed on a quarter section over in Colorado, but it lapsed, but I bought and bought and bought every time I have entered upon land or improved it. Now, this is a serious question, and it has had already various propositions and questions submitted in regard to it, but I am in favor of looking after that speculator. I am after him every time, whether it is in Salt Lake County or Weber. My experience in Huntsville, where I labored for twenty years—the bishop generally looked after the widows and orphans there and saw that they got onto claims that were stable and could be sustained in law. I do not think much of the bishop that would let his widows and orphans sit down upon land that they had no titles to.

Mr. MAUGHAN. Do you place all widows and orphans on school sections?

Mr. HAMMOND. No, sir; never placed one on the land in the world.

Mr. CREER. Mr. President, I wish to say that I have been acquainted with the condition of the entry of school lands in the south end of Utah County from the first, and I know up to the present time that the advantage has been in favor of the man that has settled upon the school lands. Now, there was a survey of that country—what was called the survey of 1856, and it was generally known where the school lands were—that is sections 16 and 36 were located. The Indian farm there, comprising about five or six thousand acres, was resurveyed some few years ago, the time that Mr. Cannon was delegate to Congress, and then gentlemen went and settled upon those school lands, knowing that they were such, and obtained an advantage over the balance of the settlers. Now,

we have school lands located between our city and the D. & R. G., where those right around them have been assessed at the rate of twenty dollars an acre for a number of years, and these lands are occupied, if you allow me that term or appellation—that is, they do not live upon those lands, but they have them enclosed, and those men are money lenders to-day. They are not widows and orphans; they are people who lend money and receive a percentage on it. Now, under the estimate of the gentleman who has made an amendment here, 160 acres would simply cost three hundred and thirty-six dollars, besides having the use of that quarter section of land for twenty years. Now, it seems to me that that would be entirely unjust, not only to the school fund but to the balance of the settlers around there, and as to the matter of whether it is the general rule throughout the Territory, now that water is owned as personal property, so that the great loss in taking out the water would not amount to much. It is worth so much money to the owner anyway, and I know it to be a disappointment, really, were we to adopt these amendments, and put them down at that minimum figure—it would be an actual disappointment to the settlers themselves, because they anticipate and expect to pay a reasonable sum for those lands. They have had the advantage of the cultivation of them, and without taxation.

I submit, Mr. President, that this is not upon the rule that the gentleman has referred you to from Washington County, and has not been the general rule; it has not been the rule in our county. The lands have not been taxed at all, but the land owners around about them have been taxed all the way from twenty up to seventy-five dollars an acre. I maintain that this would not be fair and just to the rest of the men; and furthermore, if they settled upon the lands in 1870, why, there has

been ample time from then until now to enter them in the land office. Every lawyer on this floor knows that, therefore, it would be wrong to give them this advantage, and I am in favor of the section as it stands in the article.

Mr. HART. Mr. President, this amendment of Mr. Evans is the fairest proposition that has been presented yet on this question. I am not altogether satisfied with it, as it now stands, but it is by far the best plan we have had of solving this difficult question. I do not believe, Mr. President, that any rule can be adopted here which will work complete justice in all cases and in all parts of the country. In Cache, as I before referred to, there was an early survey, but it was for many years after before the people knew where those lands were. They settled upon the school lands, not knowing they were school lands. Now, the gentleman from Beaver County suggests it was their business to find out where those surveys were. Some fourteen or sixteen years after the government survey, a competent surveyor went over that same ground and ran certain lines, and even the surveyor, learned in those matters, could not discover and did not discover the government lines, and people located with reference to the later survey, and many years after they found there was a quite a difference between the two surveys. Now, the year 1870 may not be exactly right. We might have to put it a little later than that. It was as late as 1880 before some of those people in Cache County knew that they were upon the school lands—and perhaps the year 1875 would be better for the people of that part of the country than an earlier date.

Mr. EVANS (Weber). I am perfectly agreeable and would like to extend that time later than 1870, if I thought the Convention would stand it.

Mr. HART. These people that settled upon these school lands paid taxes and have for years, and the public got

the benefit of the revenue, and it cost them, so far as the taxes and the improvements and other things were concerned, as much to secure and hold those lands as if they had a government title.

Mr. ANDERSON. Were those settlers on school lands in Cache Valley, residing on the lands?

Mr. HART. Some of them did; many of them did; many of them are living there to-day, and have their homes upon them. There are some ten or eleven thousand acres in Cache County in this condition, and the greater part of it was settled at a time when they did not know and could not find out that it was school lands, and it would be an injustice—the greatest kind of an injustice, to compel those people to pay the actual value of that land at the present time. They devoted all these years—thirty or forty years—to securing their title to that land.

Mr. MAUGHAN. Is it not a fact that the survey in Cache Valley was made in 1855?

Mr. HART. I think the first survey was made in 1855 or 1856.

Mr. MAUGHAN. Is it not a fact that, where they located on school lands, as late as 1875 or 1880, it was because the township had not been fully surveyed, and they were completed by deputy United States surveyors?

Mr. HART. The second survey of that, Mr. President, was made in the year 1870, that is, some rough lines were drawn through there at that time, but even then, they could not tell just where the townships were, and they were still—up until 1875, and some as late as 1880, that did not know they were upon school lands. If people had known where those surveys were, I would then be in favor of the rule requiring those who settled after the survey to pay a reasonable value for them.

It seems to me that to fix any rate upon those lands would in certain instances work injustice both to the

school fund and to individuals, because there is some of that land up there that is worth five dollars an acre, and the people, I think, would be willing to pay that and perhaps a little more for some of the best lands. There is some land there that is not worth a dollar and a half an acre, but to those individuals, it would be an injustice; but I would rather in disposing of this question, work an injustice to the school fund in two instances, by favoring some of these second purchasers, than I would do a wrong to one of those poor locators that has been on that land and depending upon it to get title. I believe that would be better.

Mr. VARIAN. There are two reasons, Mr. President, in my judgment here, why this matter ought not to be further continued. It is a matter that properly and appropriately ought to be left to the Legislature, and the second reason is that, as far as the article is now constituted, you have intermingled and so blended matters within the power of this Constitution with those that are not, that it would be impossible apparently to segregate them. I want to call attention to the Enabling Act, premising what I have to say with the statement that it appears therefrom that this Constitutional Convention only has jurisdiction over the school lands—that is, as to their disposition. As to all other grants of land provided for in this act, it appears by the express language of the Enabling Act that the location and disposition is to be left to the Legislature. I want to call attention to section 1, the provision upon page 2—all seem to relate to the disposition of all the lands granted the State generally. Now, there are, I believe, sixteen or seventeen hundred thousand acres. Section 6 of the Enabling Act provides that upon the admission of the State certain sections or other lands equivalent thereto are granted the State for the support of common schools, such in-

demnity lands to be selected in the State in such manner as the Legislature may provide, with the approval of the secretary of the interior. Now, that may leave the question open, on that particular point, as to the school lands. Section 7 provides that upon admission of the State into the Union, one hundred sections of the unappropriated lands within the State shall be located and selected in legal subdivisions, as provided in section 6. Section 8 provides for, in addition to the above, 110,000 acres to be selected and located as provided in the foregoing sections of this act. Now, when you come to section 12, which provides for the granting of 1,150,000 acres of land, different language is used. It says that the land granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide. Now, granting that you may put in your organic law whatever you choose about the school land, and very possibly one or two other grants, why it would seem by the expressed language of section 12, that at least as to 1,150,000 acres of land granted, the disposition of which is apparently contemplated in section 1 of this proposed article—it is to be left to the Legislature to be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide. Now, I think all these amendments ought to be disposed of, and this article ought either to be remodeled entirely or nearly all of it stricken out. There are reasons for that, too, without reference to the act of Congress. If you tie up the Legislature in the disposition of these public lands, sooner or later, the point will be reached in the business of the State, when it will be found to its disadvantage. It ought to be left, it seems to me, as a business proposition,

to be controlled by the Legislature through the medium of proper laws.

Mr. EVANS (Weber). Your idea is that the Legislature has the right to prescribe the manner in which these lands shall be sold?

Mr. VARIAN. That as to the larger grants, 1,150,000 acres, the provision is expressed that they shall be held, appropriated, and disposed of exclusively, for the purposes herein mentioned—in such manner—I hold that “in such manner” includes the time and price to the persons.

Mr. EVANS (Weber). You don’t hold that this Convention has not the power to fix the price, do you?

Mr. VARIAN. That is the construction I put upon it, but passing that, as a question of doubt, I hold it is a matter which ought to be left to the Legislature. I am not speaking of the school lands.

Mr. PIERCE. I would like to ask a question. Mr. Varian, do you see that there is any necessity of having any article at all in the Constitution?

Mr. VARIAN. I do not expect the first—

Mr. PIERCE. I have prepared a section that I intend to offer—“Public lands and school lands may be disposed of in the manner provided by law.” Would not that satisfy the whole thing?

Mr. KERR. Mr. President, I should not take up any of the time of this Convention discussing this question, if I was satisfied both of these amendments would be voted down. I am not in favor of it. It certainly seems to me there are two sides to this question, and, as stated by one of the supporters of these amendments, no provision in the Constitution can do entire justice to all the settlers on these lands. Section 4 of the article reported by the committee provides that these lands shall be under the supervision and control of land commissioners elected by the people; that is, land commissioners shall

locate and dispose of lands under such regulations as the Legislature may prescribe. It seems that some of the people who have been occupying these lands have been paying taxes; others have not. Now, it seems to me, that while we should not do an injustice to any man or person occupying these lands, yet we should not do an injustice to others. For example, one person settles upon a quarter section—160 acres of school land. He pays absolutely nothing for it. He cultivates it, gets the use of it for thirty or forty years, without paying a dollar's taxes upon that land. Another person settles upon an adjoining 160 acres of land, pays the government price for the lands; pays the taxes upon the land, is deprived of the use of that money that he paid for the land for these thirty years. Now, it is an injustice to the people who have paid for their land, when they obtained the land, to allow their neighbor, merely because they settled upon school lands, to pay now the government price for those lands, irrespective of the value of the lands. The person who paid \$1.25 an acre for the land, say thirty years ago, has been deprived of the use of that money since then, and I do not know of a time in the history of Utah when money was worth but three per cent. Now, it is proposed in one of these amendments to let those who have settled upon school lands obtain title to those lands at \$1.25 per acre or \$1.50 per acre, with three per cent. per annum, while the man who obtained title to his land twenty-five or thirty years ago, has been deprived of the money he paid for the use of the land, which was worth ten, twelve, fifteen, and eighteen per cent. per annum. Now, it does seem to me, that if this disposition of the school lands is left to the Legislature, a law then can be passed which will enable these people who have settled upon school lands to receive justice. In Cache County, one condition of affairs exists with respect to the settle-

ment of these lands. In Washington County, an entirely different condition exists with respect to the same lands; in Sanpete and Salt Lake County, other conditions. Now, it seems to me, that if this is left so that the Legislature can pass a law in pursuance of which a board of commissioners can dispose of these lands, then absolute justice can be done to all the people who have settled upon these lands; but I do not believe it is possible for this Convention to adopt a section or an article to this Constitution, which will do justice to all who have settled upon the lands. I would not knowingly do anything that would work an injustice to any man, but I do not believe it possible for us to provide in a Constitution for the disposition of these lands in such a way as to do absolute justice to all, and therefore I would favor the section as it is in preference to the amendments.

Mr. EVANS (Utah). Mr. President, I presume that each locality and their conditions perhaps vary. While taking some particular localities, I would be in favor of these amendments. I think the section provides all that it ought to provide for the regulating of this school land. The question that was raised by the gentleman from Salt Lake (Mr. Varian), is a very good point, and I am forced to the conclusion that it will be necessary, in order to comply with the Enabling Act, for us to strike out all the latter part of section 1, but it does not reach the question as to school lands. I believe we have a right to fix the price, and the mode by which the school lands may be disposed of. Now, it is presumed that we will place before the people as these school commissioners, men of good judgment, men that understand the values of land and property, who understand what is right and just between the people and the State, and I think that so far as putting a restriction upon the Legislature, which will be compulsory upon the land commissioners—that section 4

will provide for all we ought to pass. That will compel them to regard and respect the improvements of those who have located, or who are now living upon those lands. They will be compelled to give them an opportunity, not that they might bid upon the land against their neighbor, but that they will fix a just and fair price, being governed by the conditions, and the circumstances of that particular locality, and then they will be obliged to give the opportunity to those who occupy these lands, of refusing that purchase price. Now, in the locality where I live, we have two sections of school land, and I have been thinking the matter over since listening to the remarks of the gentlemen upon this floor, and I can only call to mind one house that is now on either of those parcels of land. It has been regarded by the people that those lands were unsafe, that when we were admitted into the Union, those lands would have to be repurchased. Our city provided and operated under a law of Congress, and they have entered one-half section, as an additional town-site entry, which has taken in all the land adjacent to the town, and on which people had built their homes. This opportunity has been presented to every town in this Territory. It was also provided by enactment of the Congress of the United States that there should be a specified time given whereby people might enter the lands that they were occupying, provided it was found to be school lands, after the survey, and I say that nine cases out of ten—I presume ninety-nine out of a hundred of that class of cases, that they have availed themselves of the opportunity that they have proceeded upon those lines and secured patents for their homes.

And I am in favor that this matter stand just as it was passed in the committee of the whole, that these amendments ought not to prevail, because whenever you fix a specific sum, which

is proposed to be done in this amendment, there will be lands that are worth perhaps fifty dollars an acre in fair value, while other lands are not worth more than two dollars, or five, or as suggested by the gentleman from Cache County. I know that this is the case. Now, in our county, I have reason to know that there has been no assessment made upon the school lands, other than for improvements thereon. It has been asked if it was not a fact that we did not assess the improvements upon those lands, so that it would bring the whole valuation equal with those of the neighbor. I want to say, gentlemen, that that has not been the fact in Utah County. We have assessed those improvements separately, and the neighbor occupying a like position, so far as his improvements were concerned, has been assessed the same, and then, in addition to that, he that held the title for his land has been assessed for that land, and has paid the taxes thereon. Therefore, I am in favor of leaving this thing just as it came from the committee, that no harm might be done.

Mr. BOYER. I would like to ask the gentleman whether the school lands or any other in the county of Utah were assessed previous to the obtaining of title, the establishment of the land office in the Territory of Utah—any of our farming land?

Mr. EVANS (Utah). I presume they were. But when the titles were obtained, then the distinction came.

Mr. ROBERTSON. Mr. President, I realize that this is a difficult matter with this Convention or the Legislature that may succeed this Convention, to set a price that will give satisfaction to all parties in the school land matter. While in one place there is one condition exists, in another there is entirely a different one existing. In the county that I came from, Emery County, there is a peculiar condition existing there. The town of Merritt, located somewhat in the center of our county, was built

right abutting against the school section, and by a special act of Congress, they were granted that school section for townsite purposes, and they had it given to them, as I understand it, at the government price, \$1.25 per acre, with of course the expense, pro rata, attached to that, but that was the price. Now, in Carbon County, of which Price is the county seat, it is also built abutting on a school section. Of course, the townsite does not lap over, but the people have claimed school land there, or at least have occupied it, and built upon it the whole length of that town, and if that land now shall be charged to them at a high price, they will be unable to obtain the title to it, and consequently will have to abandon it, because they are poor people. And in other parts of the county, school sections are occupied for farming and agricultural purposes. Now, the question arises in my mind and in this wise, that the water in this Territory and the counties thereof, is pretty much, if not all, already occupied, or taken or claimed. Now, if these people should be compelled to pay what would be termed an exorbitant price for the school land, and would have to move away, that would of necessity and actually take away the water they have applied to that land, and that would deteriorate the value of the land back, almost to its original price, before they ever touched it. Therefore, I am in favor that the parties that are occupying the school lands—that it shall be made just as easy to them, as it is possible for it, under the circumstances, to be done.

Mr. THURMAN. Mr. President, I cannot say that I am not in sympathy with the principle contained in these amendments, but it is quite evident to me since the gentleman from Salt Lake (Mr. Varian) raised the point on the Enabling Act, that either this whole matter should be left to the Legislature, or at least, if we want to reach the

school question at all, recommit it to the committee for that purpose. We certainly cannot fix it at this time in this committee. Now, we find in line with what he said, that pretty nearly all of the article, or down to the point where this amendment is proposed, is beyond the power of this Convention. You see in section 1 it undertakes to deal with the public lands in their entirety, not school lands alone, but all lands of the State, or that may hereafter be granted to the State by Congress, and all lands acquired by gift, grant, or devise, from any person or corporation, or that may otherwise be acquired, are accepted and shall be the public lands of the State, and shall be held in trust for the people, to be disposed of as hereinafter provided. Now, as he has called our attention to section 12 of the Enabling Act, the last paragraph of that section, which distinctly said that the lands granted by this section (which are a very large body of land), shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide—not as this Convention may provide. Now, as we have undertaken in this article to deal with all the lands and we have made no exceptions whatever, it is evident that we have mixed up that which we have perhaps the power to do with that which we have no power to do, and consequently we have got, it seems to me, to strike the whole article out, or at least all except the following:

All lands of the State that have been or that may hereafter be granted to the State, by Congress, and all lands acquired by gift, grant, or devise, from any person or corporation, or that may otherwise be acquired, are hereby accepted, and shall be the public lands of the State, and shall be held in trust for the people, to be disposed of as may be provided by law.

Or, if we want to retain a few lines further, strike out after the words “disposed of as hereinafter provided,” and

read "to be disposed of for the respective purposes for which they have or may be granted, donated, devised, or otherwise acquired, as may be provided by law."

I favor the first suggestion that I made, that we add after the words, "disposed of," in line 8, the words, "as may be provided by law," for the reason that the Enabling Act in the same language that I read provides that the Legislature—"which will be held, appropriated, and disposed of exclusively for the purposes herein mentioned in such manner as the Legislature of the State may provide." But, however, that is immaterial.

Mr. MALONEY. What section are you reading from in the Enabling Act?

Mr. THURMAN. Section 12.

Mr. MALONEY. Section 6 is what deals with the school question.

Mr. THURMAN. I understand, but I am calling the attention of the Convention to the fact that so far as we have proceeded in this article, we are undertaking to deal with all the lands, and the Enabling Act says we cannot in this Convention provide for disposing of at least a part of the lands, so that we have got to do this work all over or else leave the whole thing to the Legislature, after simply accepting the grants which they have made or may make, and for that reason, I will, if it is not in order now, at the proper time, move that either this matter be recommitted or I will move to strike out all of the article after—

The PRESIDENT. It seems to me, from the statement of the gentleman, the consideration of these propositions any further is simply a waste of our time.

Mr. THURMAN. Mr. President, I wish to say I shall move at the proper time to strike out all after the word acquire, in line 10, and add "as may be provided by law," and strike out the words "as may hereafter be provided," in line 8.

Mr. THORESON. Mr. President, being as this is prospective, I think that it would be safe to do something for the present. I agree with the gentleman that this whole matter should be left to the Legislature. We might get along without it, but we have now provided by this section that all these lands should be disposed of for full market value, and gentlemen, to go to the people that way in the condition that we talk of here, and tell them that they are to pay a full market value for these homes, and this land, would merely be to tell them that we are going to injure them, and they would look upon it as being greatly injured, and they would vote against the Constitution. I am opposed to the price, because the price of the land, at the time it was settled upon, varied. Some was worth a dollar and a half, and some perhaps ten dollars, and occupants would not object to paying the full value at the time, but I also object to the time as proposed in the substitute here, because it does not cover all the circumstances and the conditions. Now, I believe that the conditions are very similar. I have not heard any disagreement. These sections where they have become parts of cities or towns, or in the valleys, have been subdivided into five and ten acre lots. Some of the smarter men, as soon as they ascertained that these were school lands, sold them to the more innocent, and perhaps ignorant, in the communities, and they have retained them and cultivated them and built upon them, in a great many instances.

Now, these people should be defended in these rights, and we should tell them in this Convention that we have protected them. I say that they are the poor in the majority of cases, in our county. Their lots were principally in five and ten acre lots, and I back the gentleman that in a great number of cases were widows and the poor, very little in the hands of the wealthy and

the rich, because, as I say, they have sold out these lands, and have taken advantage of getting lands they could obtain better titles to. I am opposed to letting this go over at this time, that the Legislature might provide that these lands must be sold at the full market value. Let us provide it. Neither the Legislature nor the commission, provided for in this article, could change that. Hence, I say here, it provides that they should be sold at prices that my substitute or amendment to the section provides; that sections 16 and 36 of school lands may be sold to actual occupants thereof, at the value of such lands prior to their occupancy, whether that be early or late. If they are occupying these lands, let them be sold to them at the value they were or had at the time they entered upon them. If that was in 1870, all right; if it was in 1890, all right. As long as they are occupying those lands in good faith, let them dispose of them at the value at that specified time when they entered upon them, and I think no injustice will be done to the people, and I do not believe that a dollar will be lost to the school fund.

Mr. ANDERSON. Mr. President, I wish to offer an amendment to Mr. Evans's substitute, as follows:

Provided, that bona fide occupants of such lands prior to the year 1870, may acquire title thereto at the sum of \$1.50 per acre, together with interest added thereto, at the rate of three per cent. per annum from said date.

Mr. RICKS. Mr. President, I move the previous question.

The previous question was ordered.

The PRESIDENT. The question before the house is on the amendment of Mr. Evans, with an amendment to the amendment, by Mr. Thoreson.

The amendment, and the amendment to the amendment were rejected.

Section 5 was read.

Mr. THURMAN. Mr. President, I

move to strike it out. It is in conflict with the Enabling Act.

Mr. Chidester offered the following amendment to the section, to add to the end of the section:

Provided that in the selection or location of school lands, the superintendent of schools of the county in which the land is to be located to be sold is situated, shall be associated as a member of said board.

The amendment was rejected.

The motion to strike out was agreed to.

Section 6 was read.

Mr. THURMAN. Mr. President, if that is the end of the article, I now move to strike out all of this article after the word "acquired," in line 10 of the first section. Strike out the words, "as hereinafter provided," in line 8, adding to that, "as may be provided by law."

The amendment was agreed to.

Mr. JOLLEY. Mr. President, I want to move now that the article on school lands be referred back to the committee to report on.

No second.

Mr. HART. Mr. President, I move that the consideration of this article be postponed until to-morrow.

The motion was rejected.

Mr. VARIAN. Mr. President, I move the previous question on the article.

The previous question was ordered.

The roll was then called on the adoption of the article with the following result:

AYES—87.

Adams	Kimball, Salt Lake
Allen	Kimball, Weber
Anderson	Larsen, L.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Button	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney

Christiansen	Maughan
Clark	McFarland
Coray	Morris
Corfman	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Evans, Utah	Ricks
Farr	Roberts
Francis	Robinson, Kane
Gibbs	Robison, Wayne
Green	Sharp
Hammond	Shurtliff
Hart	Snow
Haynes	Spencer
Halliday	Squires
Heybourne	Strevell
Hill	Symons
Howard	Thompson
Hughes	Thoreson
Hyde	Thorne
Ivins	Thurman
James	Varian
Johnson	Warrum
Kiesel	Wells
Kearns	Williams.
Kerr	

NOES—4.

Jolley	Robertson
Pierce	Stover.

ABSENT—15.

Buys	Moritz
Crane	Nebeker
Goodwin	Peters
Keith	Ryan
Lambert	Thatcher
Larsen, C. P.	Van Horne
Low, Cache	Whitney.
Miller	

During the roll call, the following statements were made:

Mr. JOLLEY. Mr. President, I feel that the article on school lands—the section should have been considered fa-

vorably for the benefit of the early settlers, and I therefore shall vote no.

The article was adopted.

Mr. EVANS (Utah). Mr. President, I want to give notice of a reconsideration.

Mr. RICKS. Mr. President, I move a suspension of the rules and a reconsideration of the vote on the adoption of the article on corporations other than municipal.

Mr. VARIAN. I do not understand that we have to suspend the rules to do that. Notice was given, was it not?

Mr. HART. Mr. President, I move an amendment to it, then, that we reconsider the article and not suspend the rules.

The question being taken on the motion, the Convention divided, and by a vote of 60 ayes to 19 noes, the motion was agreed to.

Mr. SQUIRES. Mr. President, I move the previous question on the article now.

The previous question was ordered.

The roll was then called on the adoption of the article with the following result:

AYES—74.

Adams	Kimball, Salt Lake
Allen	Kimball, Weber
Anderson	Lambert
Barnes	Larsen, L.
Bowdle	Lemmon
Boyer	Lewis
Brandley	Lowe, Wm.
Button	Lowe, Peter
Cannon	Lund
Chidester	Maeser
Christiansen	Mackintosh
Clark	Maloney
Coray	Maughan
Crane	McFarland
Cunningham	Morris
Cushing	Murdock, Beaver
Driver	Murdock, Summit
Eichnor	Page
Eldredge	Partridge
Emery	Peterson, Grand

Evans, Utah	Peterson, Sanpete
Farr	Raleigh
Francis	Ricks
Gibbs	Robertson
Green	Robinson, Kane
Hart	Robison, Wayne
Heybourne	Shurtliff
Hill	Squires
Howard	Stover
Hughes	Strevel
Hyde	Symons
Ivins	Thompson
James	Thorne
Johnson	Varian
Jolley	Warrum
Kearns	Wells
Kerr	Williams.

NOES—19.

Call	Pierce
Coriman	Preston
Creer	Richards
Engberg	Roberts
Evans, Weber	Sharp
Hammond	Spencer
Haynes	Thoreson
Halliday	Thurman
Kiesel	Whitney.
Murdock, Wasatch	

ABSENT—13.

Buys	Nebeker
Goodwin	Peters
Keith	Ryan
Larsen, C. P.	Snow
Low, Cache	Thatcher
Miller	Van Horne.
Moritz	

During the roll call the following statements were made:

Mr. BOYER. Mr. President, I vote aye for the main article, but desire to be noted as no against sections 25 and 26 being stricken out.

Mr. CREER. Mr. President, because of the Convention striking out 23 and also 25, I vote no upon this article.

Mr. WHITNEY. Mr. President, I have not heard the discussion. I would like to be excused.

Mr. ANDERSON. Mr. President, I would like to change my vote from no

to aye, but I wish to be recorded as being opposed to section 21.

Mr. WHITNEY. Mr. President, I will vote no, the same as I did yesterday.

The PRESIDENT. The article has been adopted.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

On motion of Mr. Kimball, of Weber, the consideration of the article entitled public salaries was postponed and the Convention proceeded to the third reading of the article entitled public buildings and State institutions.

Sections 1, 2, and 3 were read.

Mr. CORFMAN. Mr. President, I move to strike out of section 3 the words "Salt Lake City," and insert the words "Provo City." I desire to say a few words on this proposition, as a member of the committee on public buildings and institutions. I was in favor of leaving the location of the capital of the new State to the people. I thought it was fitting and proper after the delegates in this Convention had made and drafted the State Constitution, that the whole people should be permitted a say as to where their seat of government should be. Provo City has presented her claims to past Legislatures, to have the capital locate there, but she did not see fit to come into this Convention and urge upon the floors what might be a sectional matter, and the people there were willing to leave it to a vote of the whole people. As Salt Lake City has seen fit to come into the Convention, not only in the Convention, but in the committee, and present her claim and insist that at this time it should be settled in favor of Salt Lake City, I think it is due to my own town, as long as the people there believe that they have some claims for her, to present it on the floor of this Convention. I do not anticipate from what took place here Saturday that we will have any great support, but I believe it due to

Provo City that her name should be mentioned in connection with this proposition.

The motion was rejected.

Mr. BOYER. Mr. President, if I remember right, the time specified therein for the appropriation of public funds is five years.

The PRESIDENT. Yes, sir.

Mr. BOYER. Mr. President, I move to strike out five and substitute ten, in section 3, making it impossible for the Legislature to make any appropriation for public buildings until after ten years. It appears that the location is permanently and positively established for the capital at Salt Lake. While upon my feet, I will say that as to natural appearances from the present population and the advantages of the Territory, it would appear as though Salt Lake is the proper place for this capital, but in the future it might be different; however, I will not argue that. Now, what we are here for is for the purpose of creating a Constitution that the people may adopt, and I believe that if this question of appropriation for a capitol be put in for ten years, it will be to a greater satisfaction to our whole constituencies, than it will be to make it possible for an appropriation within five years. Now, it is evident that as a new State, we will be assuming great financial responsibility, in order to make the people within the whole State satisfied that there will be no incurring of debt, that there will be no measure adopted for the building of a capitol within our new State for the period of ten years—it will give a greater zest to the Constitution, and people will be more willing to vote for the Constitution than they will if there is a possibility of incurring a debt that otherwise may be incurred by the Legislature. I know that men here will argue upon this floor that the Legislature will do nothing of the kind; that they are men of wisdom, and will be men of wisdom, when elected to that honor-

able body. Now, I grant you, Mr. President, that this may be true, and no doubt will be true, but judging the future by the past, we have had much of the measure of wisdom in the Legislature, and we find that our Territory to-day is laboring under a debt of nearly eight hundred thousand dollars, and we desire that the great wisdom that may be in that Legislature in the future to say, limit it, then that they will have no possible power to incur this debt, within ten years, and in doing this, we will accord to our constituency a satisfaction that I think will compensate all of Utah County, all south of Salt Lake, for the final locating of the capital here in Salt Lake City. I believe it will be for the advantage of the citizens of the Territory when they know that the Legislature is prohibited from making appropriation for capitol purposes within the period of ten years.

Mr. KIMBALL (Weber). Mr. President, I am in favor of locating the capital at Salt Lake City. I do that for this reason: That it is the center of population in this Territory, and must be the center of population for years to come, and I think that it is wisdom for this Convention to locate it permanently at Salt Lake City, so that the question of capital shall not be a football between Legislatures that may meet hereafter. I am further in favor of locating it at Salt Lake City, without any limitation upon appropriation. Now, I have had the honor to be a member of two Legislatures of this Territory heretofore, and I know that in those two Legislatures, Salt Lake City was not in danger of getting any appropriation. My friend Evans was in the Legislature at that time, and on a conference committee of that Legislature, and I know that he and I both agreed on that thing, that Salt Lake City should not have any appropriation, so I think you can safely leave it.

Mr. BOYER. Was there not in the

last Legislature an appropriation made and expended on Capitol Hill here?

Mr. KIMBALL (Weber). That was two thousand dollars for some specific purpose. It was not for the building of a capitol or anything of the kind.

Mr. BOYER. Well, expended on those grounds?

Mr. KIMBALL (Weber). And if the gentleman will allow me, that was to give unemployed labor that were clamoring here at the doors of Salt Lake City and Ogden City, for labor, men who were starving and had to have something to live upon, and they applied to the Legislature to have an appropriation made, and that appropriation was made in pursuance of it.

Mr. BOYER. Was there not the Legislature previous some five thousand dollars appropriated to be expended on capitol grounds?

Mr. KIMBALL (Weber). I don't remember the amount. There was some appropriation made for expenditure on capitol grounds, but that was a different proposition from building capitol buildings, and I don't think that you ought to restrict the Legislature in the way of capitol buildings.

Mr. BOYER. Would the gentleman vote for an appropriation for the purpose of employing tramp labor that may happen to come into the community; is that the position?

Mr. KIMBALL (Weber). No, sir; I was opposed to it when it was appropriated before. I would be opposed to it all the time and everlastingly, as far as I am concerned. Salt Lake City had to bear all the burdens of the tramp laborers that came in here at that time.

Mr. VARIAN. Mr. President, I submit to the Convention that we ought not to be continually threshing over this straw. No good can be accomplished by it. I do not apprehend for a moment that it is the purpose of this Convention to change the location in any way of the capital city at this

time. But there has been a matter overlooked heretofore, or at least not mentioned, which ought to be considered, namely, section 7 of the Enabling Act. 100 sections, or 64,000 acres of land, have been granted to the Territory of Utah for the purpose of erecting public buildings, and the capitol of the State, when permanently located, for legislative, executive, and judicial purposes. Now, ought the purpose of gentlemen to be to restrict the permanent location of this capital and by that means indefinitely or for a long period of years to tie up this grant of land and deprive the people of this coming State of the revenue that may be derived through their sale as occasion may offer? Practically remove them from settlement during all this time—64,000 acres of land subject to selection by the State, which we hope will be imperatively demanded by settlers within the very near future? Why should you have any restrictions upon this matter? It is open to the people at any time by a majority vote to change the capital. You certainly shall desire to avail yourselves of all these grants of public lands, and we have not too much land now in the Territory open to exploration and development. Whenever we find an acre or a number of acres that can be subjected to the uses of man for agricultural or other purposes, we have reason to hope that it will be sought for, and we certainly have reason to expect that it will be permitted to be yielded for those purposes. Now, if this proviso even to the extent of five years shall remain, for five years at least, 64,000 acres of land, which may be selected by this State, or the Legislature thereof, in pursuance of its authority, will remain just in that condition, not open to settlement—that is not settlement in the full sense—simply open to the squatter, perhaps to skin it, as was suggested this morning by my friend from San Juan—for his present temporary purposes, but not open for

the purpose of building up homes and communities.

Mr. EVANS (Weber). You do not contend, do you, that the Legislature would not have the right to make disposition of these capitol lands and procure the money and create a sinking fund, for the purpose of—

Mr. VARIAN. Yes, I do; I contend this, that the moment the capital is permanently located, as it ought to be, in the Constitution of the State, without restriction, except in so far as it is a restriction concerning future amendments of the Constitution, the Legislature can provide for the selection and location of these lands, as provided in the subsequent section, and for the sale of them and the reduction into money of their value, and in the meantime, it is accomplishing its purpose at both ends. It is getting the moneys for the public buildings, and it is opening up these otherwise undeveloped lands to the purpose of the settler, and in that way, building up the community and the State. You have nothing to fear. Every gentleman, if he will stop and reflect a moment, knows that whenever the necessities of the community shall require it, the people will make this change, and will remove the capital. So, what is the use, I submit to you, of arguing this matter day after day, when we ought to be able to decide one way or the other and decide it permanently? We decided the other day it was to remain in Salt Lake City for the present, at least.

Mr. EVANS (Weber). Is it the proposition now to take the capital away from Salt Lake?

The PRESIDENT. No, sir; it is simply to change the date from five to ten years.

Mr. VARIAN. Well, that is a postponement of the sale of these lands.

Mr. HEYBOURNE. Mr. President, I am a little surprised, after the consideration this matter received a few days ago, to hear gentlemen stand upon

the floor of this house, and as it were, resurrect it again. I presumed that the matter was then settled. I placed myself on record upon the occasion, as being against any condition, so far as the establishing of the seat of government was concerned in the new State, and I am also of that same mind to-day. Yet, at the same time, to satisfy some of the gentlemen upon the floor of this house, it was thought proper and perhaps wise to restrict this matter and place a limit of five years. I had in mind at that time the section that has been referred to by the gentleman from Salt Lake, with regard to the grants of land that have been so generously given to the State by the national government, and I hold that if this thing is not permanently located and settled at this time, we will not be able to avail ourselves of these privileges, and I trust that we will not go over the same ground again. If I should give expression to my views at this time, I would certainly move to strike out the five year consideration, and I will so move, Mr. President.

Mr. SNOW. Mr. President, I move the previous question.

The motion for the previous question was rejected.

Mr. EVANS (Weber). Mr. President, I wish to call attention for a moment to section 7 of the Enabling Act. I do not believe that this section 7 is so intended that it would defeat the appropriation. I think that that is merely a subterfuge for the purpose of securing the location of the capital here, without any other provision, and I do not say that offensively either. It simply provides that upon the admission of the State into the Union, in accordance with the provisions of this act, one hundred sections of the unappropriated lands within the State are to be located and selected. Now, that is simply a grant of these lands for this particular purpose; it simply does not say when we shall sell these lands—

when we shall appropriate the money for the building of the capitol. I hope the amendment will prevail. It will simply put at rest this vexed question.

The roll being called on the amendment offered by Mr. Heybourne, the result was as follows:

AYES—50.

Adams	Kimball, Salt Lake
Anderson	Kimball, Weber
Bowdle	Lambert
Brandley	Larsen, L.
Button	Lewis
Chidester	Lowe, Peter
Christiansen	Mackintosh
Clark	Maloney
Coray	McFarland
Crane	Morris
Cushing	Murdock, Beaver
Driver	Page
Eichnor	Preston
Eldredge	Raleigh
Farr	Richards
Green	Robinson, Kane
Hammond	Shurtliff
Haynes	Spencer
Heybourne	Squires
Hill	Stover
Hyde	Strevel
James	Symons
Kiesel	Varian
Kearns	Warrum
Kerr	Williams.

NOES—36.

Allen	Lowe, Wm.
Barnes	Lund
Boyer	Maeser
Call	Maughan
Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Partridge
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Roberts
Francis	Robertson
Hart	Robison, Wayne
Halliday	Sharp
Howard	Snow
Hughes	Thompson
Johnson	Thoreson

Jolley
Lemmon

Thorne
Thurman.

ABSENT—20.

Buys	Moritz
Cannon	Nebeker
Emery	Peters
Gibbs	Pierce
Goodwin	Ricks
Ivins	Ryan
Keith	Thatcher
Larsen, C. P.	Van Horne
Low, Cache	Wells
Miller	Whitney.

The PRESIDENT. The amendment of Mr. Heybourne is carried.

Section 6 was read.

Mr. KIMBALL (Weber). Mr. President, I move to amend that section by reinserting subdivision fifth, with these words added, "the institution for the deaf, dumb, and blind, at the city of Ogden, in the county of Weber." I do that for this reason, that I think the city of Ogden is the most central location that you could find in this Territory for that institution. One thing that moves me to make that motion is this, that neither the states of Wyoming, Nevada, or Montana, have an institution for the deaf, dumb, and blind, and they have in their legislative report heretofore recommended Utah as the place to send the pupils of that character.

Mr. MALONEY. And so has Idaho.

Mr. KIMBALL (Weber). And so has Idaho. And I say for that reason that we should locate these universities on the line of the transcontinental communication between all of the states, so that we could have a chance to get the custom of those states. I say it for another reason, that Ogden City is in itself located on all of the great lines of transcontinental communication that run from one part of the United States to another, and this is in accord with the recommendation of the president of that institution, or the man who is superintendent of that institution at this time. I say it for another reason, that Ogden City to-day has

buildings amply sufficient, belonging to the State, to accommodate all these pupils, and I have no doubt in my own mind that Ogden City, if it became necessary, could secure other buildings for the purpose of accommodating other pupils that are now located at Salt Lake City. And I submit, gentlemen, that my amendment ought to carry here and that institution be permanently located. I will call attention to another fact, that here the other day we passed a resolution, or an article, taking away from the deaf and dumb the building they are now occupying, which cost fifty-five thousand dollars, and transferred it to the university, so that that institution is left to-day without any building. If you are going now to locate the university, and locate it at some place where you have no buildings, you have got to appropriate at least a hundred thousand dollars to erect buildings suitable for the purpose, and I submit, gentlemen, that you ought to carry my amendment.

Mr. LUND. What buildings have you in mind? You said you have buildings ample?

Mr. KIMBALL (Weber). I have the reform school building in mind when I say we have buildings ample for that purpose, and the superintendent or president of the deaf and dumb institute here in Salt Lake has been there and examined those buildings, and he tells me that those buildings will be ample for ten to twenty years to come for the accommodation of all pupils that may be sent up there.

Mr. L. LARSEN. Mr. President, I make a motion to amend Mr. Kimball's motion by inserting "in the county of Sanpete, the site to be located by the Legislature." Sanpete County is the central part of Utah Territory; it is a county that contains toward fifteen thousand people. We have no State institution in that county of any kind, and as I understand that the county of Weber has now one State institution,

namely, the reform school, which the gentleman from Ogden seems to think that it would be more proper to use for the deaf and dumb and blind institute. I do not know what he expects to do with the pupils of the reform school, if he intends to bring them to Sanpete or turn them out in the street at large. Now, I do not know that we have any particular inducements to offer to this Convention, because we have not consulted our people in Sanpete County in regard to this; but we have no doubt if this Convention should say that it should be located in Sanpete County, but what the place, whenever it may be designated by the Legislature, will do something in regard to the building up and encouragement, etc., and give inducements to this institution, if it so shall be desired by this Convention to locate it in Sanpete. We think that Sanpete is entitled to some consideration in this matter, and we hope that this Convention will cautiously weigh this matter before they decide, and if it should seem proper or better for this Convention to leave it entirely to the Legislature in the future, I do not know that I should object to this move, but I certainly should oppose establishing another institution in one county where they already have one, before Sanpete should be recognized. And I do hope that there are others that will look at it in that way, on the floor of this Convention. We think that we ought to have some public institution there, and we desire not only to see a few towns in Utah built up—these large cities are able to take care of themselves, as a rule. They are able to draw towards their center the money, which no doubt they are all at this time willing to concede the members of this Convention—the thirty thousand dollars that has come from Uncle Sam will all stay in Salt Lake, and most every dollar else that we got. They all roll into Salt Lake and to these great centers. And I suppose Ogden is one in the northern

part of this Territory the same way. Now, we want the outside counties, as it were, who have not the facilities—we think that it is statesman-like and that men of this Convention will show themselves to be statesmen if they will properly guard against monopolizing everything in a few places; and would give encouragement to other parts of the Territory which need encouragement. We want to build up and to add to, etc., to other places besides these central points.

Mr. MAESER. Mr. President, I fully acknowledge the justice of the claim of Sanpete County for some consideration in the location of one of our public institutions, but I hold that the mere location or the mere claim of a county, or any particular locality, in being favored with the location of one of our public institutions, is not the first consideration. We have to consider the welfare of the respective institutions that are under consideration. Now, we are talking here of the deaf, dumb and blind—these unfortunates. Their well-being has to be considered. Here we have the blind. Their strongest connection with life is music; they should be located in a neighborhood where they have the advantages of musical entertainments, operas, concerts, and once in a while the opportunity to hear good musicians coming around. That is to be considered. They would not have that privilege in Sanpete. Then the deaf and dumb, their connection with life is by sight. They ought to be located in such a way, in such a locality, where they can see something once in a while. To locate them in a locality where things are moving rather in a monotonous way from one year's end to another is an injustice to them. I could not, as far as I am familiar with the life of the deaf and dumb, and with the life of the blind—I would consider it a cruelty to locate such unfortunates in localities where the life passes away in a monotonous way all the year

round. They ought to be placed in such a way where their particular propensities are taken care of, and can be supplied with. Therefore, I could not conscientiously vote for a location for the deaf and dumb and blind in a locality like Sanpete.

Mr. LUND. Mr. President and gentlemen of the Convention, I think there is some right in the request that Sanpete makes to-day for that institution. As has been said, if we are going to put the blind man where he could have the greatest pleasure of his ears for music, why Salt Lake is the only place then for that institution. If it is so necessary that they who are deaf and dumb must see a great deal of the works of man, Salt Lake is the only place for the institution; but I submit that we cannot afford to centralize everything within this county, nor can we afford to give two institutions to a county when it has already one, and there is a county as large as the one and as populous as the one that has a State institution on the north, which has no State institution. I think this distribution is a matter of right. Sanpete has all the railroads of the Territory, if you please, with trains daily passing to and from that county. The climate is good. We are a little higher than Salt Lake, and we have not such hot summers, but it does not seem that our winters are any colder. Perhaps we are a week later in our vegetation, in the springtime; the air is not stirred by wind very often; the breezes are very gentle and pleasant, and the water from the mountains is very clear and it is very pure.

Mr. KIMBALL (Weber). The gentleman says that there is no wind in Sanpete County. I would like to know whether these men here truly represent the county?

Mr. LUND. Well, perhaps we took some of the wind out of the county when we came. I want to say that our market, butter, beef, mutton, flour, and vegetables are very cheap down there—

cheaper than they are perhaps in any other part of the Territory. Our coal costs but half what it costs in Salt Lake City or in Ogden, if I am rightly informed. We can have it laid down at the institution for two dollars and a half a ton, and our building material is very plentiful. You could build a building that would be suited to all of the needs, and the cost would not be a great deal. Now, I want to say for Sanpete that we are not behind the rest of the Territory when it come to music, gentlemen. Our orchestras—several of them, in Sanpete, are equal to any that I have heard outside of Salt Lake City. We have an excellent brass band, and amusement, and concerts are very numerous during the winter season, and these blind people would be able to have all the amusement that they could spare time for, I believe, from their training. Now, that is all. We ought not to establish the rule as outside members to centralize this. You see readily if Sanpete gets the institution that the next county in population will stand a good show to get some other institution when they are given out, because we have adopted the rule of distributing them, but if Sanpete is left without one, those outside members will see that when there is an institution given after this time, we will have a first claim, and perhaps then the rule will be to keep them at all events in the great centers of population, and I think that we ought to break that rule here and now, and Sanpete stands a good show. I have an inducement to offer for Sanpete, but it is for a particular locality, and I would like you to settle the right giving Sanpete an institution before I offer that inducement. However, that is from my town, and as soon as you vote upon this question, however it goes, I shall move an amendment to the motion if we lose it, and I will if we do not lose it, but that will be too selfish perhaps to introduce into this argument, for the county at large.

Mr. HAMMOND. Mr. President, I feel a little awkward in supporting this motion to locate this asylum for the deaf, dumb, and blind, in the north, as I hail from the south, but the gentleman here on my right suggested we take the statesman view of it—that is economy, and locate this institution down in San Juan [laughter]—excuse me—Sanpete County, because they had a beautiful site, not yet determined as our young friend tells us, and that is one of the strongest reasons that I would urge against the proposition to locate it in Sanpete, for they will be buzzing around the Legislature, and as a fight between Ephraim and Manassa, and those other places, and trying to lobby to get it at Ephraim, or Spring City, and this would make confusion among the saints there [laughter]—excuse me, amongst the citizens of Sanpete. Now, there is another view I take of it. The proposition offered by our distinguished democratic friend, Mr. Kiesel, from Ogden, the other day, that he would vouch for the citizens of Ogden offering a suitable site with all the buildings that were necessary, free for the location of this institution in Ogden. Now, that I view as a piece of statesmanship again, to keep the people from hovering around the Legislature for appropriations continually; now Mr. Kiesel is a gentleman that I have had a great deal of acquaintance with for a long time—business relations of different natures, and I believe he is a man of his word; but, sir, the worst thing that I have against him in the world was his introducing me about six years ago to a friend of his by the name of Fred Dubois, when we were in Washington. That gentleman said he did not want to locate alongside of Utah, and represented Utah as being the South where the negroes were, and that is the worst thing that Kiesel ever did to me in the world.

Mr. KERR. Mr. President, ever since the question of locating the public in-

stitutions was before the committee, I have been in favor of locating permanently all of our public institutions. I was in favor of locating the capital. I was in favor of uniting and locating permanently our higher educational institutions. I am in favor, in the Constitution, of providing for the permanent location of the institution for the deaf, dumb, and blind. I think they should be provided for. It has been stated that in the location of our public institutions, certain localities should receive recognition, and the statesmanship of the delegates has been appealed to by the gentleman from Sanpete County upon this subject. It is my opinion that we are here working, not for any particular town or county, but in the interests of the new State, and the question is not as to the benefits to be derived from the location of the particular institutions in a particular town or county, but as to what is in the interests of the State, with respect to the location of these institutions. A year ago, when the question of locating or removing the reform school from its present building, and also the institution for the deaf and dumb from the university, was under discussion, Mr. Metcalf, principal of the deaf and dumb school, visited Ogden, and carefully inspected the buildings there. He informed me personally that those buildings are ample for all the work of the institution for the deaf, dumb, and blind. The present building occupied by that institution is inadequate. I am familiar with the works of that institution, and I know that it is inadequate. The buildings at Ogden, I believe are sufficiently large to accommodate all the students of this institution. There are, in my judgment, many reasons why the institution for the deaf, dumb, and blind, should not be located in Sanpete County—many reasons why it would be in the interests of these unfortunates to have the institution located at Ogden. Some of the

reasons have been stated, and I do not care to state them again, but by locating this institution at Ogden, in the first place, you would save to the State at least, in my judgment, a hundred thousand dollars, which otherwise would have to be expended in the direction of buildings. The present building cost about sixty-five thousand dollars. That is entirely inadequate for the deaf and dumb. Now, if the institution also provides facilities for the blind, it would require at least thirty or forty thousand dollars more to erect suitable buildings. The university of Utah at present has not room for the work. If the institution for the deaf, dumb, and blind should be located at Ogden, the present building could be vacated and the university would unite that building, which is worth, as I take it, about sixty-five thousand dollars, a gain, therefore, to the State of that amount. I believe, in the interests of the deaf, dumb, and blind, in the economical interests of the State, that we should locate this institution now and locate it at Ogden.

Mr. FARR. Mr. President, the last speaker just about spoke my mind. The main feature in this discussion, or in the object we have before us at the present time, is what the last speaker has introduced. That is, expediency, on account of the finances. If we locate it on some ground or county where there is no public building, or place to establish that school, why, the Territory has to go to expense to build the buildings, or else the deaf and dumb and the blind cannot get the proper education. It would be some—I do not know how many—years before we would be prepared to build for them. We know that we are very much in debt at the present time and will be very much embarrassed for years to come before we can be prepared to build a suitable building for that institution. Now, I think, if Sanpete be given some public improvement,

I would like to see them have it. I would like to see San Juan have it, and all these other counties, have public improvement, as much as consistent, but the question is now, the matter of expediency. It has been repeated, it is not necessary for me to say it again, that Ogden is a central city; it is the center of all the railroad systems of this intermountain country; the buildings are already built—that is, the military academy is already built; it is a pleasant and nice location, and here is the reform school building, which is a question with me whether that is a success yet. It has been a great expense, and it is one of the most sightly places to be found in the Territory. In case that should be vacated as a reform school, there will be that building and a vast amount of improvements on that, and the deaf and dumb and blind will go there; hence, as we have got those buildings, I do not feel to put the Territory in debt in the future to establish that institution—why, to me, it looks most reasonable that we had better take Ogden, irrespective of counties or wishes of other people, which I would like to respect, all of them, as much as I can.

Mr. EVANS (Weber). Mr. President, as far as I am individually concerned, it will make no difference to me if this institution went to Sanpete or to any other proper locality, if it were not for the question of expense to the new State, but the reform school at present amounts to but very little, and that building is amply sufficient for the purposes of deaf, and dumb, and blind, and sufficient too, for, a great many years in the future, probably for nearly a quarter of a century, if not longer. There is more money appropriated there, I think, than as suggested. The original building and grounds cost seventy-five thousand dollars, which was appropriated by the Legislature, I think, in 1888.

Mr. KIMBALL (Weber). Mr. Evans, I would like to say that the annex

building cost twenty-five thousand dollars; that would make a hundred thousand dollars appropriated so far for that reform school, outside of maintenance.

Mr. EVANS (Weber). Those buildings belong to the Territory and of course would belong to the new State, and there would be absolutely no expense for putting up public buildings for this purpose. So far as Ogden is concerned, it is amply able to take care of itself, if it has none of these institutions at all. We are not here begging for it; we are simply asking for it on business principles.

Mr. ANDERSON. What would become of the reform school if that building was occupied—

Mr. EVANS (Weber). The Legislature would have to provide for that if desired. There are only a few children there. They might be provided for in the penitentiary at Salt Lake, or some other place at some separate place from the ordinary criminals. Now, Mr. Kiesel, as has been stated, is a man of his word in business matters. No man disputes that; he controls the military academy; he is willing, he says, to give that building for these purposes. I think, however, it would be better to make the exchange and let the next Legislature do it. Put the reform school boys in the military academy, because that is peculiarly appropriate for that kind of an institution. Put the deaf and dumb and blind in the reform school building. There the Territory would be provided, gentlemen, for years and years to come, without applying to the Legislature for one dollar of public moneys for additional buildings. It seems to me as a matter of business principles, that it ought to go to Ogden, and I will call attention to section 12 of the Enabling Act, which appropriates one hundred thousand dollars for the reform school and one hundred thousand acres of land for the deaf, dumb, and blind. These institutions ought to be located, I think, anyway. I am like Mr. Kerr

about it, locate them now, on the same principle that you located the capital. Now, just one word about the number of institutions in Ogden. It has one, that is all, one which amounts to but very little, and about which we care but little. Salt Lake has four very important public buildings, or public institutions, rather. There is the capitol, university, fair grounds, and the penitentiary. We are only asking for two, and I will tell you, gentlemen, frankly, I would not ask for those if it were not for the fact that we have the buildings, and it will be a saving to the new State.

Mr. BOWDLE. Mr. President, I move the previous question.

The motion for the previous question was rejected.

Mr. THURMAN. I desire to ask for information, if any provision has been passed by the Convention separating the deaf mute school from the university?

Mr. KIMBALL (Weber). I will say that there was in this respect, Mr. President, that they transferred the building now occupied by the deaf mutes to the university, and left the deaf mutes without any accommodation whatever.

Mr. EVANS (Weber). I will call attention to section 10 of the educational article.

Mr. THURMAN. Now, Mr. President, I take no part in this fight at all. It is simply a matter in which I have no personal interest, and I do not know what would be for the best good of the Territory, but by existing law, the deaf mute institute is a part of the university as established at Salt Lake City. The question is, whether we want to go back and remodel our work and make those changes, or whether we want to leave it as a part of the university. I merely raise the point.

Mr. KERR. Is it not true that the deaf and dumb institution has been connected with the university merely because there were accommodations at no other place, and the regents for years

have been trying to get it separated from the university, as it is in no way connected with the work of the university?

Mr. THURMAN. I merely make the point that by the existing laws of the Territory, it is a part of the university, and if we want to separate it we must do it distinctly in this article; in fact better go back to that article, and take the deaf mute institute from the university in the article on education, if we are going to establish it elsewhere. As between Sanpete and Ogden, I have no choice.

Mr. HEYBOURNE. Mr. President, I am not clear as to the point that Mr. Thurman raised on this matter, and I would like to receive information or light on this matter before I am prepared to cast my vote. However, I would say this, I am in favor of settling the location of these public buildings right here and permanently. I have had some little experience in regard to the pressure that was brought to bear upon the Legislature of the Territory of Utah from time to time in relation to the claims of the various districts in the Territory, upon these territorial institutions, and I say that it should be settled now and forever. I will state, in this connection, that Iron County has no very great inducement to offer. We are willing to concede any little claims we may have to these more populous districts. There is no labor, gentlemen, that touches my sympathy so much as when we are called upon to provide for the unfortunates in our midst, and I claim that in doing so, we should be reasonably liberal, and in the selections that we may make we should seek to have them in such a way that their surroundings may be as happy and as agreeable to them as it is possible for us to do. I am very favorable so far with the proposition that has been made from the county on the north—Weber, and unless there is some matter presented here that will satisfy

me on the point which Mr. Thurman has raised, I shall certainly vote to sustain the proposition that has been presented from Weber County, as I think the surroundings and situation would add more to the comfort of those who are so unfortunate as to be cared for in these institutions.

The amendment of Mr. L. Larsen was rejected.

The motion of Mr. Kimball, of Weber, was agreed to.

Mr. EVANS (Utah). Mr. President, I desire to offer the following as section 7:

There shall be no appropriation for State capitol building for the term of four years.

Mr. VARIAN. Mr. President, I make a point of order on that. The subject matter of that amendment has been disposed of by a negative vote of this Convention, and that the fact that it is changed from five to four years, makes no difference, because the amendments ought to have been offered at the time that matter was pending.

The PRESIDENT. The chair is of the opinion the point of order is well taken.

Mr. LUND. Mr. President, I desire to offer in the sixth subdivision here the following:

The state normal school shall be established at Ephraim, Sanpete County.

Mr. KERR. Mr. President, I raise the point of order, that question has already been settled. The article on education has made it a part of the university, and to be permanently located in Salt Lake City.

Mr. LUND. Mr. President, I think, by motion of Judge Goodwin, it was expressed by the Convention, that the normal school should not be located at the same place as the university.

Mr. MURDOCK (Beaver). Mr. President, I desire to make an amendment to that motion, that it be established at Beaver—Fort Cameron.

Mr. LUND. Mr. President, I would like to say just a word, and that is this,

that if you will give us a state institution, the city council of Ephraim City, by communication this morning, said that for any state institution they offered one block within the city of Ephraim, with city water rights—eight acres—very little smaller than the block occupied by this building, worth in the least, even five thousand dollars.

The amendment of Mr. Murdock, of Beaver, was rejected.

Mr. KIMBALL (Weber). Mr. President, I raise this point of order, that the motion of Mr. Lund is not in order, for this reason, that it is not germane to the subject that we have under consideration. The article that we have under consideration is public buildings and state institutions. They are all defined in the article. In the article on education, the state normal school was taken up and disposed of, and it is not pertinent to this issue to bring up the state normal school in connection with this article.

Mr. JOLLEY. I rise to a point of order, that the gentleman is too late.

Mr. ROBERTS. Mr. President, I arise to a point of order on this question, that in the article on education one of the sections provided that the establishment of state normal schools was left to the Legislature, and in order to get this motion carried it would be necessary, sir, to reconsider that disposition of that question, and that cannot be done, as I understand it, at this stage without a two-thirds vote.

The PRESIDENT. The gentleman's point of order is well taken.

The roll being called on the adoption of the article entitled public buildings and state institutions, the result was as follows:

AYES—84.

Adams	Lemmon
Allen	Lewis
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Lund

Brandley	Maeser
Button	Mackintosh
Call	Maloney
Chidester	Maughan
Clark	McFarland
Coray	Morris
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Roberts
Francis	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Spencer
Heybourne	Squires
Hill	Stover
Howard	Strevell
Hughes	Symons
Hyde	Thompson
James	Thoreson
Johnson	Thorne
Kiesel	Thurman
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams.

NOES—4.

Boyer	Jolley
Corfman	Larsen, L.

ABSENT—18.

Buys	Miller
Cannon	Moritz
Christiansen	Nebeker
Emery	Peters
Gibbs	Pierce
IVINS	Ricks
Keith	Ryan
Larsen, C. P.	Thatcher
Low, Cache	Van Horne.

During the roll call the following statements were made:

Mr. BOYER. Mr. President, being decidedly opposed to section 3, I vote no on the whole article.

Mr. CREER. Mr. President, I am decidedly opposed to section 3. It will be like the reform school. They asked for twenty-five thousand dollars and got seventy-five thousand dollars, and that will be the way with your capitol building. You will have it all inside of three years, but I vote aye all the same.

The PRESIDENT. The article is adopted.

The article on public salaries is next in order.

Mr. CRANE. Mr. President, I desire to bring to the attention of the Convention the fact that six of the articles are all ready for final passage, if final passage is necessary by the Convention. They are already in the hands of the members of the Convention, and if the clerk would read them, any suggestions or erasures, or such like as that, could be attended to in a few minutes, and these six articles could be placed in the hands of the committee on engrossment, so it would not delay us to exceed twenty-four hours after the close of the Convention. To-morrow we should have some more articles from the hands of the printer, and they also can be reviewed and the committee on engrossment can get to work. It is a long, laborious work that they will have on their hands, engrossing all these articles. It will facilitate business, and every one I know wants to get home as soon as possible. I move that we suspend the rules, if it is necessary to suspend the rules, and take action on these revised articles.

The motion was agreed to.

Mr. KIMBALL (Weber). Mr. President, I now move you that we proceed with the regular order of business on the calendar, and dispose of that, before we begin to read that Constitution.

Mr. SNOW. I raise the point of order; we just voted that down.

The PRESIDENT. The point of order is well taken.

Mr. LUND. Mr. President, may I just say a word? The point of order that was raised by Mr. Roberts does not exist in the article on education, as it passed this house by the ayes and noes on the third reading. It was only in the section that was stricken out of the educational article, as it came before us, that would warrant the assertions that he made to you. He made them honestly, I have no doubt, but I say that they cannot be found here, and I would not like to be turned down on account of a mistake, but to have this house, not on technicalities, but with—

Mr. ANDERSON. Mr. President, I arise to a point of order.

Mr. LUND. —but to give us right, according to the way that you would like to be dealt with yourselves.

The point of order was sustained.

Mr. ROBERTS. Mr. President, I wish to give notice, then, that I will move the reconsideration of that vote, in order that we may examine that, as I do not wish to take advantage of any technicality.

The Convention then proceeded to the final consideration of the articles reported by the committee on compilation and arrangement.

Mr. ROBERTS. Mr. President, I would move you that the secretary hold in his hand the original copy of one of them from this committee, and as some member of the committee who is altogether familiar and acquainted with this matter, that they have gone over so carefully, reads it, that the secretary check. I move that Mr. Whitney be called upon to read this.

The motion was agreed to.

Mr. VARIAN. Mr. President, permit me to make a suggestion. The secretary is the executive recording officer and reading officer of this Convention. The committee are the eyes and ears

and hands of this Convention. We presume that these amendments have been incorporated properly; I suggest that the secretary proceed with the regular order and read the report of the committee.

Mr. GOODWIN. Mr. President, I move we reconsider the vote.

The motion to reconsider was agreed to.

The secretary then read from the declaration of rights sections 1, 2, 3, and 4.

Mr. WELLS. I would like to ask the committee why the sentence "perfect toleration of religious sentiment" is guaranteed is left out? I do not recollect it was stricken out by the Convention.

Mr. WHITNEY. Mr. President, I can answer, if Mr. Crane does not wish to. The reason is, gentlemen, that almost this identical sentence occurs in the article entitled ordinance, and we simply struck it out here, as it could well be spared here to avoid repetition in the other article.

Mr. EVANS (Weber). Mr. President, it does seem to me that that ought to be in this section, as it passed; that is the very place for that guaranty of right—in the bill of rights. It is where it would be looked for by any one who is examining the Constitution.

Mr. VARIAN. Does not the act of Congress require that is to be done by ordinance?

Mr. RICHARDS. Yes, sir.

Mr. VARIAN. Then it is proper in the ordinance.

Mr. CRANE. If the gentleman will look at the article on ordinance, "first, perfect toleration of religious sentiment is guaranteed," the sentences are almost identical.

Sections 5, 6, 7, 8, 9, 10, 11, and 12 were read.

Mr. WHITNEY. Mr. President, there is one suggestion, that the latter part of section 12 be changed to read, "a wife shall not be compelled to testify against

her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense." I throw it out as a suggestion, if the Convention feel like making the change. I think it is a little better language.

Mr. VARIAN. Mr. President, I move that it be changed in accordance with the gentleman's suggestion.

The motion was agreed to.

Mr. HART. I desire to call the attention of the committee on revision to the position in which the word "twice" is placed here, and ask them if it would not be better to be placed either after the word "put" or after the word "jeopardy," in section 12, next to the last line? I move that those words be transposed.

The motion was agreed to.

Mr. THORESON. Mr. President, I move we reconsider that, and place the word twice after jeopardy.

The motion of Mr. Thoreson was agreed to.

The PRESIDENT. Then it stands now as printed in the article.

Section 13 was read.

Mr. EVANS (Weber). I move that we insert the word "or" instead of the word "and."

The motion was agreed to.

Mr. THURMAN. I move we change the word "one," the last word in section 13, to the word "it."

The motion was agreed to.

Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 were read.

Mr. KERR. Mr. President, I move that in section 20 the word "shall" be inserted after "soldier," instead of after "peace," leaving that section as it was in the printed copy. My reason is this, my attention was called to the following section. If we interpret "shall," in section 21, after "servitude," the phrases which come between it and the other part of the verb "exist" would render it rather cumbersome, but in section 20, it will certainly read better and stronger. I think "shall" should come in before the phrase "in time of peace."

Mr. ROBERTS. Mr. President, I think, with all due respect to the Professor, that he is not right in that statement of his case. I believe, sir, that the rule requires that "shall be," being a perfect verb, one taken together, part of it ought not to be separated, and as to its being stronger, it is altogether how you accustom yourself to read it. I confess that the latter reading to me is by long odds the stronger, and it requires the parts of the verb not to be separated, whenever it can be avoided.

Mr. KERR. Mr. President, I will just state that when I first arose I stated that as changed by the committee it is not ungrammatical; it is correct; I have my authorities here, but I warranted to you that in sentences of this kind, the auxiliary is very frequently separated from the principal word "shall." I can quote you authorities by the score in support of that.

Mr. EICHNOR. Mr. President, I do not know whether the Constitution of the United States is any authority for this Convention or not, but it is a good deal of authority with me. The third amendment to the Constitution of the United States reads, "no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

Mr. CRANE. Mr. President, we have followed out this line in the articles we have revised, where "shall" occurs; in the beginning of the sentence, we have always placed it as we have here. If we change "shall" the way the professor desires it, we shall have to change the word in almost all the articles we have revised to make it harmonious.

Mr. KERR. Does the gentleman argue that the arrangement of these words must be exactly the same in all the sections of an article?

Mr. CRANE. Not necessarily so, of course.

The motion of Mr. Kerr was agreed to.

Mr. SQUIRES. Mr. President, I move that the last five words in section 21 be inserted after the word "servitude." I think, Mr. President, the exception should follow and not be mixed in.

The PRESIDENT. Is this in the Constitution of the United States?

Mr. EICHNOR. It is the same as in the Constitution of the United States, the thirteenth amendment.

Mr. ROBERTS. Mr. President, I can scarcely think, sir, that the Constitution of the United States, so far as its grammatical and rhetorical construction is concerned, is like the multiplication table, and cannot be improved upon. I believe, sir, that as to its phraseology it can be improved upon, and I believe that this is one of the instances in which it can be improved, just as I believed in the other case that the putting together of the auxiliary and the verb is a better construction of the language than what we have followed. I like the amendment that is proposed and I hope it will prevail.

Mr. KERR. Mr. President, I differed with the gentleman on the other question. I agree with him on this. I certainly think that the exception here would prove the statement.

Mr. EVANS (Weber). Mr. President, I am no criterion, but I like the section as it is now, because I am familiar with the language, having been used in the Constitution of the United States. We will have to commit to memory this sentence as it is reconstructed, and then we will get mixed up on what the same sentence is in the Constitution of the United States.

The amendment of Mr. Squires was rejected.

Mr. GOODWIN. Mr. President, I move that section 24 come last, so that it will be numbered 27.

The motion was agreed to.

Mr. THORESON. Mr. President, in section 20, in the third line, I move that the phrase "in time of peace" be set off by a comma.

The motion was agreed to.

Mr. WHITNEY. Mr. President, before we leave this, I wish to make a motion, and I do make it, that the last two sections of article 1, as now amended, be transposed so as to leave the section reading, "frequent recurrence to fundamental principles," etc., as the last one.

The motion was agreed to.

The Convention then proceeded to the final consideration of Article II.

The same was read and passed without amendment.

Article III—Ordinance.

Section 1 was read.

Mr. RICHARDS. Mr. President, I move the word "hereof," at the end of line 14, be changed to "thereof."

Mr. SQUIRES. Mr. President, I add to that the word, "therein," in the 16th line.

Mr. THURMAN. Mr. President, I do not understand that "hereof" means "thereof." I think it ought to be "of this State." I think the amendment proposed would make this section ambiguous. There are two things represented here, there is the United States, as a whole, in the one place, and this State in another. Now, the language in the place of the word "hereof" should expressly refer to either one or the other, and not leave it so that it might refer to both or either. I think we ought to insert "of this State."

Mr. RICHARDS. I second that motion.

The motion was agreed to.

Mr. SQUIRES. Mr. President, I move that the word "herein," in the second line following that, be changed to "therein."

Mr. CRANE. Mr. President, that will give it an exact contrary meaning to what is intended for it. We are talking about the State right out here. When we are talking to a man out there he is "therein"—out yonder, but when he is here, he is "herein." We

are talking about the lands in the State.

Mr. SQUIRES. I am informed by the constitutional authority at the table on my left that "therein" is the word used in the Wyoming constitution, and I believe it is the correct word to go in there.

The amendment was rejected.

Mr. CRANE. Mr. President, I move to strike out the "t" in the fourth line, second paragraph, and make it read "within the boundaries hereof," instead of "thereof;" we are speaking of the land within the boundaries hereof. We are speaking within the lands immediately surrounding us.

Mr. WHITNEY. Mr. President, I trust this amendment will not prevail; I think if we get to changing that and using "hereof" and "herein," it refers to the document itself.

Mr. RICHARDS. That is it exactly.

Mr. CRANE. I will withdraw the amendment.

Mr. EVANS (Weber). Mr. Whitney's language is of more force, and that applies also to the word "therein," in line 14. I move to reconsider that now.

The motion was agreed to.

Mr. EVANS (Weber). Now, I move to insert the letter "t" before "h," in the 16th line, making it read "therein" instead of "herein."

The motion was agreed to.

Mr. RICHARDS. Mr. President, I desire to ask if the transposition of the word "be," in the 16th line, was made by a vote?

The PRESIDENT. It was done by the committee.

Mr. RICHARDS. Then I move that it be restored as it is in the printed article.

The motion was agreed to.

The third subdivision was read.

Mr. RICHARDS. I ask for information whether this section is complete? It seems to me there is some word

lacking there. I move that the word "incurred" be inserted after "Utah."

Mr. EVANS (Weber). Would not it be better to say "incurred by authority of the legislative assembly?"

The PRESIDENT. And strike out the word "under?"

Mr. EVANS (Weber). Yes.

The amendment was agreed to.

The fourth subdivision was read.

Article 4 was then taken up for consideration.

Section 1 was read.

Mr. EVANS (Weber). Mr. President, I move we strike out the words "right of," so that the sub-head will read "elections and suffrage."

The motion was rejected.

Mr. KERR. Mr. President, I move that the word "right," in the title, be made plural.

The motion was rejected.

Sections 2, 3, 4, 5, 6, 7, 8, and 9 were read.

Mr. WHITNEY. I move that the comma after the word January, in the eighth line, be stricken out.

The motion was agreed to.

Section 10 was read.

Mr. ELDREDGE. Mr. President, I move to suspend the rules of the Convention in order to strike out the word "judicial," in section 9.

The motion was agreed to.

Mr. ELDREDGE. Mr. President, I now move to strike out, in section 9, the word "judicial," in the third line and in the ninth line.

Mr. SQUIRES. I amend that motion by transposing the word "and," in the second line before "school."

Mr. ELDREDGE. I will accept the amendment.

Mr. WHITNEY. What will be the effect of this?

The PRESIDENT. To make the election occur, I suppose, on the day that the other officers are elected.

Mr. THURMAN. Mr. President, if it is in order, I desire to move to strike out the second line, commencing with

the word "except," down to and including the word "officers," in the third line. I just simply want to suggest that while I am very sorry that we have started a precedent of suspending rules to resume debates on matters that have been passed, and for fear that it may lead us to things that some of us will be sorry for, before we get through, yet I take it the only object for striking out "judicial" is as has been contended here, for the sake of economy, and reducing the number of elections. Now, if that be true, I am in favor of placing it beyond all question and providing that all general elections of the State, saying nothing about for what, and as the Legislature may declare general elections—

Mr. VARIAN. Mr. President, I would like to state a point of order. The standing rule of the Convention prohibits offering of substantial amendments upon this reading. That standing rule can be suspended by a two-thirds vote. Presumably a two-thirds vote was just taken for a specific purpose, not for the purpose of opening up this question for amendment. It was distinctly stated, as the purpose of the mover for the suspension of the rule, that it was directed solely to the word judicial—to strike that out of this section. That is the reason, so far as I understand it, that induced this vote. I, for one, should not have voted to suspend the rule, had I understood that it contemplated the opening up of the entire section for amendment, and I think that if my brother Thurman desires to sense this Convention upon the question he presents, he must take a distinct vote upon the suspension of the rule for that purpose, otherwise we would never accomplish anything.

The PRESIDENT. I think the point of order is well taken.

The amendment of Mr. Eldredge was agreed to.

Mr. THURMAN. Mr. President, I will test the sense of this Convention on the proposition that the gentleman shut me

off on the point of order, and I move that the rules be suspended with a view to reconsidering to permit of a motion to strike out of the section the words "except for municipal and school officers."

Mr. CANNON. Mr. President, I second that motion, with the understanding that we then strike out the last three lines at the end of the section.

Mr. THURMAN. Yes; I would like to make the amendment eventually all the way through, while we are at it.

Mr. PRESTON. Do I understand that municipal elections of the cities are general elections and school elections?

Mr. THURMAN. Permit me to say that I do not believe that the motion that I now make will interfere with the Legislature fixing another day for a municipal election if they want one, but at the same time, as it now stands, it compels them to fix a different day.

Mr. PRESTON. I have no objection if the Legislature can fix it.

Mr. JOLLEY. I wish to ask the gentleman from Utah a question. Would you leave "school" in there? I think that would satisfy better than to leave it open.

Mr. THURMAN. I have this point in mind, Mr. Jolley, that the Legislature can make the school election a general election or not, as it may please. I want to leave this with the Legislature, so if they want to make it on the same day, all right, and if they want to have a different day, they have the right to do it.

The motion to reconsider was agreed to.

Mr. THURMAN. Mr. President, I move to amend this section by striking out all after the word "elections," in the second line, down to and including "officers," in the third line.

The amendment was agreed to.

Mr. RICHARDS. Mr. President, I move that the words, "after the adoption of this Constitution," be stricken out, in the first line, because they mean

nothing. Of course, this cannot apply to any elections held before the adoption.

Mr. THURMAN. Mr. President, I will second the motion. Those words were put in there after the committee on elections had determined to except municipal, judicial, and school officers, because we could not except them at the election for the adoption or rejection of the Constitution, but after the adoption, then that was to be done.

The motion of Mr. Richards was agreed to.

Mr. KERR. Mr. President, I move that the semi-colon before the word "provided" be changed to a colon, and the word "that," after the word "provided," begin with a capital letter.

The motion was agreed to.

Mr. CORAY. Mr. President, I move that section 9 begin with a capital letter also.

The motion was agreed to.

Section 10 was read.

Mr. SQUIRES. Mr. President, I make the point of order that the hour and a half set apart for this work is now more than past. I move we adjourn until to-morrow morning.

The secretary then read a communication from ladies of Salt Lake City, inviting the members and officers of the Convention to a reception.

On motion, the invitation was accepted.

On motion, the Convention then adjourned.

FIFTY-NINTH DAY.

WEDNESDAY, May, 1, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Thompson, of Millard.

The journal of the 58th day's session was read and approved.

UNFINISHED BUSINESS.

Mr. ROBERTS. Mr. President, I think that this would be the appropriate time to move the reconsideration of the matter that was decided yesterday upon a point of order raised by myself in regard to locating the state normal school in Sanpete County. I raised the point of order yesterday that the action of the Convention in regard to locating the state normal school in Sanpete County was out of order, because the Convention at the previous sitting had provided that state normal schools and agricultural experiment stations might be established at other places than at Salt Lake City, and the chair sustained that point of order. I was subsequently informed that the point of order was not well founded, for the reason that section 5 in the article on education, upon which I based my point of order, was stricken out. Now, my recollection is still that that provision was in the section, but I discover that it is not in the article as it has passed through the hands of the committee on compilation and arrangement, and, therefore, I ask the chair to reconsider the ruling upon the point of order raised by myself.

Mr. VARIAN. I would like to suggest to my friend that he would have to move to reconsider the vote by which the article passed.

Mr. ROBERTS. The situation is this: The Convention voted for Mr. Lund's proposition to establish the state normal school in Sanpete County. That motion carried. Then, after it carried, I rose to a point of order, and now, it seems to me, that if the chair should reconsider his ruling on that question it would stand as adopted by the Convention.

Mr. VARIAN. The chair cannot, I submit, go back of the final reading and vote of the Convention, and change a ruling in that way.

Mr. ROBERTS. Well, then, Mr. Pres-

ident, I move the reconsideration of the vote by which the state normal school was located at Sanpete County.

The PRESIDENT. That is, the article as adopted?

Mr. ROBERTS. That is, the article as adopted.

Mr. KERR. Mr. President, it occurs to me that the only way that subject can possibly be brought before the Convention is to move a suspension of the rules for the purpose of reconsidering the article on education. My reasons are these: among other committees that were appointed was one on education and school lands, one on public buildings and state institutions not educational. The committee on public buildings and state institutions not educational asked the Convention as to whether they should or should not consider educational institutions. They desired to know what work was expected of them, and it was decided by the Convention that the committee on education and school lands should consider everything pertaining to the educational institutions of the coming State, and that the committee on public buildings and state institutions should consider only public buildings and state institutions not educational. The normal school is certainly an educational institution, and any question pertaining to the normal school, therefore, must be considered in the article on education, and cannot, under that provision, be considered in connection with the article on public buildings and state institutions. It seems to me, therefore, that if the gentlemen desire to reconsider the action taken yesterday, with respect to the normal schools, it would be necessary to suspend the rules and reconsider the article on education. The whole proceedings yesterday with respect to the normal school were out of order.

Mr. ROBERTS. Mr. President, the only thing necessary, as I understand it, would be to reconsider that article,

in connection with which this motion was made to locate the state normal school in Sanpete County. That, as I understand it, was in connection with the article on public buildings and state institutions. It was in connection with that article that this motion was made to locate the state normal school in Sanpete County. My friend from Sanpete succeeded in persuading the Convention to vote for the establishment of the state normal school at Sanpete, and we reversed the decision of the house on that question by claiming that one of the sections in the article on education left that matter with the Legislature, and the chair so ruled; and hence the action of the house in voting the normal school at Sanpete was overruled. Now, sir, I think it does not involve the bringing back to the floor of this Convention the article on education at all, but merely the article on public buildings and state institutions, and now, Mr. President, I wish to remark further, that if it shall require a two-thirds vote to suspend the rules of this house and bring back this article for consideration, I hope that the two-thirds vote necessary will not be lacking, for the reason that the decision of the house in locating the state normal school in Sanpete County was clearly in order, and the reversal of that action of the house, by raising the point of order, since it was not founded in a fact, all fairness requires that this Convention shall bring back this action for reconsideration.

Mr. LUND. One word as to the point raised by the gentleman from Cache. He says that because the normal school is an educational institution, it cannot be considered in that article on state institutions and public buildings. I would ask the gentleman if the university and the agricultural college are not educational institutions?

Mr. KERR. Yes, sir; and those were not considered in the article on public buildings and state institutions. I will

cite the gentleman to this point, that if the ruling yesterday should be reversed, I could precipitate, or any other gentleman on this floor could precipitate the fight as to the university and agricultural college, because they are state institutions. It is impossible to bring up that subject again without reconsidering the article on education.

Mr. LUND. Mr. President, I would like to go back to the Enabling Act, and show you that that is a state institution.

Mr. KERR. They are all state institutions.

Mr. LUND. And that it was a separate grant, and while the Congress has prescribed that the school of mines shall be in connection with the university, it has made this separate.

Mr. CREER. I would like to ask the gentleman from Cache, is not the deaf and dumb an educational institution?

Mr. KERR. It is so regarded by the committee on education, but the committee on public buildings and state institutions say it is a charitable institution. I did not raise the point of order.

Mr. VARIAN. Mr. President, I do not know as I have any objection to settling that matter in accordance with the suggestions of the gentleman from Davis, and at the request of the gentleman from Sanpete, but I think that the reopening of the question ought to be confined to that particular question. I will offer as an amendment to Mr. Roberts's motion, that the vote by which the article on public buildings was adopted on third reading yesterday be reconsidered, for the single purpose of passing upon the question relating to the normal school.

Mr. ROBERTS. I accept the amendment.

Mr. EVANS (Utah). Mr. President, that is the very thing the gentleman from Salt Lake himself objected to, as I remember it, yesterday—to reconsider the vote on one section of an article,

and it was sustained by this Convention.

Mr. VARIAN. Mr. President, the gentleman is mistaken. What I objected to—and which was sustained by the Convention, was a motion to reconsider a vote by which a single section was passed. It was attempted then to bring back a single section. I contended then, and contend now, that it is impossible to do that according to parliamentary law, but here is a matter of grace to be extended by this Convention. There was a difference of opinion, or a misunderstanding between gentlemen, and advantage was taken of it. One gentleman finds that, through inadvertence, there appears to have been an advantage taken. Now, whether we reconsider or not, is not a matter of right. I say that we can reconsider for a special purpose, not the single section, but the whole article, and when we get the whole article back, that we pass upon the particular question for which we reconsidered.

The motion to reconsider was agreed to.

Mr. KERR. Mr. President, is the motion of Mr. Lund to erect the normal school now before the Convention?

The PRESIDENT. That is the question before the Convention now for consideration.

Mr. LUND. Mr. President, the amendment I offered yesterday was "sixth, that the state normal school be located at Ephraim, Sanpete County."

Mr. JOLLEY. Mr. President, I want to amend that motion, and strike out the word "Ephraim," and let it be left to the voters of said county. I believe all the delegates are united with this, from Sanpete County, except Mr. Lund.

Mr. KERR. I will state, Mr. President, that I did not desire yesterday to take up the time of the Convention considering this question, because I have not any idea but that the motion will be voted down by an overwhelming majority. I admit that I was as-

tounded when the result of the vote was announced, and I can attribute it to no other cause than a misapprehension on the part of some of the delegates of the importance of this question. Now, the question is simply this, The normal school is at present a department of the university of Utah; by action of the Convention yesterday, the building heretofore occupied by the institution of the deaf and dumb will be vacated, the deaf, dumb, and blind going to Ogden. There is ample room in the present university, the deaf mute building and the Deseret museum, now used by the university, for all the departments of the university. The physical, mechanical, and other laboratories, required for the work of elementary science in the normal school, are all equipped, and the work in these departments, or the facilities for the work in these departments, do not cost the Territory a single dollar, because they would have to be provided for the other departments of the university anyway. Again, the university library, the university museum, are used by the normal students as well as other students of the university. Another point, the students in the classes in general work in the normal school enter the same classes in the university courses, and the work therefore, does not cost the Territory but a very little in addition to that which would be required for the same work in other departments of the university. In other words, the normal school where it is can do all the work of that department with two or three instructors, and with no additional expense for libraries, museum and laboratory facilities. But, if we establish the normal school at Ephraim, or any other place than that where the university is, it will be necessary to expend at least one hundred thousand dollars. I will state, gentlemen, that I have figured this out carefully since the action yesterday, and if the view I have taken be true, it will

cost at least one hundred thousand dollars to erect buildings, provide laboratory facilities, purchase a library and museum, with which even to begin the work of the normal school at any other place than with the university.

Now, I submit, gentlemen, that we have not the means to throw away for this work, because in the university here there are ample facilities for all the work of the normal school, and if we remove the normal department from that institution, we simply throw away at least one hundred thousand dollars in the erection of buildings and furnishing facilities for the normal school work. Another point: At present, as connected with the university, the normal school has the use of two or three grades of the public schools of Salt Lake City, for a normal training school, and the Salt Lake City board of education pays the instructors in this training school, so that, by having the normal department connected with the university in Salt Lake City, the Territory saves the salaries of these special normal training schools, in the normal training school of the university. Now, gentlemen, I submit that all the argument in favor of the union, or nearly all the argument in favor of the union of the agricultural college and the university of Utah, will apply here, with the additional argument that, whereas the agricultural college is already provided for, the college at Logan and the university here, if we remove the normal school from the university, we have to provide all the buildings and other facilities for the work of the normal school. The argument again—the removal of the normal school from the university is even far greater than that against the separation of the agricultural college and the university of Utah; and I do trust, gentlemen of the Convention, that we shall not so far lose sight of the interests of education in Utah as to perpetrate another outrage upon the people by the separation of

those institutions from the university, and thereby render them impracticable for years to come, for us to have even a normal school in the State of Utah.

Mr. JOLLEY. In your able argument the other day, in favor of blending the university and college, did you not admit to a question of Judge Goodwin, that the normal school should be apart from the university?

Mr. KERR. No, sir; my statement was this, in reply to a question asked by Judge Goodwin, that if Utah had plenty of money, one of the objections to separating the normal school from the university would be removed; that is, the economical objection; that was all.

Mr. JOLLEY. Did you not concede to Mr. Goodwin the other day that it would be better apart from the university?

Mr. KERR. No, sir; neither by statement nor implication did I make such a statement. I admitted, in reply to a question of Judge Goodwin, that the time may come in fifteen or twenty years from now, that more than one normal school might be needed in the State, and hence I accepted his amendment that the Legislature may provide for the establishment of normal schools at other places than at that where the university is located, but not admitting even then that the present normal school should be separated from the university; my position being that it may come in ten, or fifteen, or twenty years, when we not only would want the normal school as connected now with the university, but we may want another at Ephraim, or Sanpete, or some other part of the State; but at no time have I conceded that the normal school under existing conditions should be separated from the university.

Mr. MAESER. Mr. President, as I on a former occasion stated, on principle, I would be opposed to having the normal school situated in any of our large cities, for various reasons—on moral

grounds, which I have stated before, but I am utterly opposed to a separation of the normal school or normal college from our university, for financial reasons. We cannot afford it.

As Professor Kerr has already stated, it would incur an expenditure of over one hundred thousand dollars, no matter where the normal school would be located, in order to get the school again upon a footing as it is now; and then Professor Kerr already stated some advantages which did not occur to me then, but which are very plain to me now. Our normal school here has the advantage of all the schools of Salt Lake City, high school as well as district schools, as training schools, and there is no locality in the whole Territory of Utah that offers such facilities as these. Therefore, I earnestly desire that this Convention would vote down anything which would separate the normal college from our university.

Mr. ANDERSON. Mr. President, I move the previous question.

Mr. ROBERTS. Mr. President, as the mover of the resolution, I ask the privilege of closing the debate.

The previous question was ordered.

Mr. ROBERTS. Mr. President, the mover of a resolution even after the previous question is ordered, has the right to close the debate.

The PRESIDENT. If he has given notice before that he desires to close the debate.

Mr. CANNON. I call for a division on that vote.

Mr. CHIDESTER. I arise to a point of order.

Mr. BUTTON. Mr. President, this is out of order. The chair decided the previous question carried.

The PRESIDENT. That is the decision of the chair.

Mr. CHIDESTER. My point of order is this, that even after the motion has carried, the mover of the question has the right to speak upon it.

Mr. CANNON. Do you rule that I have not the right to call for a division?

The PRESIDENT. The chair had passed upon this matter.

Mr. CANNON. Then, I appeal from the decision of the chair. So far as I am concerned, I do not propose to follow any ruling that a division cannot be called for upon this floor. I think the members have some rights, and one of those rights is that when a question is put, and a vote is taken upon it, if they believe the motion is not carried, they have a right to call for a division. It could not possibly be called for until the chair decides whether or not the question has been carried. That is my reason for appealing from the decision of the chair.

Mr. IVINS. Mr. President, the situation is just this, and it is a situation that has occurred before in this house: The previous question was called for. It requires a two-thirds' vote to maintain it. Now, the very minute that the vote was taken, the chair announced that the previous question had carried. Mr. Cannon arose and asked for a division, and he had a right to demand a division before that declaration was made, and, therefore, I shall sustain him in his appeal from the chair.

The question being taken on the appeal from the decision of the chair, the Convention divided, and by a vote of 22 ayes to 51 noes, the decision of the chair was overruled.

Mr. CANNON. Mr. President, I now call for a division on the motion for the previous question.

The question being taken on division, the vote stood 41 ayes to 38 noes.

The PRESIDENT. It is not carried, gentlemen.

Mr. ROBERTS. Mr. President, I wish to give notice that I desire to close this debate.

Mr. CANNON. Mr. President, I would like to speak a moment or two, if I have the floor. I desire to say a word upon the subject of the removal

of the normal school from its present location. Professor Kerr has explained to you many of the reasons why this should not be done, and I fully concur with him in his statements. There are at present in the university about three hundred normal students, I am informed, out of an attendance of 465. You, gentlemen, can plainly see what would be the effect to remove those students from the university. If the purpose is to kill the university, I say vote for removal. If you want to build that institution up and to give the people the greatest good for the least expenditure of money, we must retain at this time our state normal school with our university. Arrangements have been made with the school board at Salt Lake City, by which the large building known as the 14th ward school has been tendered, free of charge, for the coming year to the university as a training school. They have this absolutely, and in addition to that, they have the services of nine teachers, who are experts in their particular line in the different grades, whose services are tendered free to the university in assisting it in its normal training school, by the school board of Salt Lake City. This, gentlemen, is an advantage I think we should not overlook.

I think that we are not in a condition at the present time to expend the necessary money to make the normal school what it should be, removing it to any part of the Territory outside of Salt Lake City. When the time does come that the State has plenty of money, I they see fit to establish normal schools in other parts of the Territory, well and good, but at the present time, I claim that fifty per cent. of the cost of educating and training your normal teachers would be saved by allowing them to remain with the university as at present.

Mr. GOODWIN. Mr. President, there seems to be a misunderstanding as to

what was done at the last session. It was moved that experimental stations be established, and that normal schools should be included, and I gave my reasons why it would not be at all proper at this time, in my judgment, to separate that school from the university; that the time would come when there ought to be one or more normal schools established; that the time would come when it would not be best to have the normal school with the university. I think I was right at that time, and I am very sure the resolution passed. There seems to be a misunderstanding here, but my recollection is very clear that it passed, but not as it has been construed that I want to separate now the normal school from the university, but simply to provide that it could be done in the future, when both institutions were able to stand on their own feet.

Mr. KERR. I would like to state that the entire section, judge, with that provision to which you refer, was stricken out.

Mr. LUND. Mr. President, I would like to say a few words. Of course, I feel a little timid after listening to the opinion of professors, but I, too, have had the chance of having a normal training, and I have been acquainted with educational institutions for about ten years; and I must say, that while I was in Germany I took great delight in reviewing their institutions as well, and I can tell you that in that country the normal training schools and the normal schools are apart from the universities. I would refer you to the able argument that was made the other day on the moral phase of that question, by Doctor Maeser, and will then give you some of the other reasons why I think that this institution might be located in Sanpete County. The reason that has been stated that this move would kill the university, I take it, is not very well founded. The university comes into possession of a school of

mines that must be established in connection with it, according to the Enabling Act. That will provide a revenue to it, that will come from one hundred thousand acres, a revenue which it has never enjoyed before, and consequently that would make up the loss which it would now sustain. In Sanpete County we could almost maintain a normal school to-day. Our people are very much interested in education. We have in the city of Ephraim graded schools, with an enrollment of over six hundred up to the eighth grade. We have an academy that is providing material every year from these pupils that come from the district schools, which would be ample in making up a whole school for the normal school, if it were located there. Undoubtedly when our county has a high school, Ephraim being the central location, the high school will be located there. Now, this grant for the establishment and maintenance of a state normal school is one hundred thousand acres, and I think it would be self-supporting. If the revenue from that would kill the university, I am certain that it is not going to live on that alone. The normal school, I believe, if it is placed in Sanpete County, and suitable buildings built, will be able to maintain itself, in the course of a year or two years, upon those grants of land.

Mr. KERR. I would like to ask the gentleman two questions. If these State lands can be located and sold, the money is invested so as to realize anything from the fund, within a year or two, or even five years?

Mr. LUND. How would it affect the university, then? It seems to me it would be self-supporting in a county where provisions and fuel and all are so very cheaper than here, that it would be much sooner a self-supporting institution.

Mr. KERR. Does the Territory have to pay anything for fuel—that is, for heating and other purposes now, for the normal school?

Mr. LUND. I suppose it does.

Mr. KERR. Not a dollar. All the pupils of the normal school simply enter the classes in the other departments of the university, in connection with the university work. It does not cost them a single dollar for fuel.

Mr. LUND. How long can we depend upon the generosity of whoever is doing that, to continue it?

Mr. KERR. It is not a generous act at all. That is one of the departments of the university. Fuel is provided for the entire institution, and facilities which are required in other departments also are used in this one department, without additional expense to the State.

Mr. LUND. I maintain, gentlemen of the Convention, that we have a very fine location for that school. I would call your attention, if you will bear with me, to the location of Ephraim. I would have you bear in mind the railroad systems of our Territory, and if you can point a more central location than that, I would like to know where it is upon the map of Utah, and I would ask you also if the students, who are preparing themselves for teachers, do not come largely from the south and from places outside of Salt Lake City? I know they do, those who are being educated in Salt Lake City and can afford that education, are generally striving for something much higher; while it is often—I may say, in most cases, the ambition of those who come from outlying districts to be contented to get a normal training and be able to teach school. Now, inasmuch as this is the case, and I do not think that any one can successfully contradict it, I would like to ask why we should not place it in the center of the Territory? As to the location that was offered yesterday, it is a block in the city of Ephraim, and within one mile and a half of that, we have quarries from which hundreds of tons of rock are being shipped into Salt Lake every year,

and you can see that the cost of building there, as labor is, will be very slight to the Territory. You can think favorably of this question of locating it there or not. I want you to do what will be for the best interests of the State. I believe from its moral phase that a little town of thirty-five hundred or three thousand inhabitants is a better place for a normal school than a city. I believe that you would save a great deal to the students themselves by placing it where everything is cheap. There is this about it, you cannot say that the normal students need to see a great deal and need to hear a great deal. While I do not countenance the statement that they could see nothing only once in a while in our country or hear nothing only once in a while, still it is not so necessary for them, and if there is a little less to divert them from their studies, I think it would only be a better thing for the students themselves.

Mr. KIMBALL (Salt Lake). May I ask Mr. Kerr a question? Is it not a fact that pupils attending the normal school receive training through the other classes than the normal proper?

Mr. KERR. I believe I stated that a very small part of the work done by normal students is normal work. Most of their work is done in the general courses right in with the regular university classes, at little additional expense to the Territory, but if the school were separated from the university, then for all this work teachers would have to be employed.

Mr. EVANS (Weber). Mr. President, I move the previous question, except as to Mr. Roberts.

The motion was rejected.

Mr. L. LARSEN. Mr. President and gentlemen, I would like to say a few words on this question. I hope that the gentlemen of this Convention will give Sanpete a chance. I shall vote for the amendment to this motion for this reason, that I desire to give the people

of Sanpete a chance to locate, providing that this Convention concede the right of Sanpete to get the normal school. I think it is right that the people of Sanpete should have their choice and select the location. I do not think that it is right for any member of the delegation of Sanpete to alone make the selection. I speak now in behalf of the other delegates. We have not agreed upon any particular location, and I do not expect that we would or could, but we are willing to leave it to the voters of Sanpete County for them to make the location and say where it shall be, and providing this Convention may concede the right to Sanpete for a normal school. This is my position, not that I particularly have any objection to Ephraim, for I have no ax to grind for Spring City or any other place particularly. I might raise objections but I do not think I shall do that, only upon this thing, and I think that the people of Sanpete should say where it should be located, and I hope that the Convention will take this view of it, which I believe would be in the interests of the people, and that they would be better satisfied if the matter is settled in that way, than for us here to-day to say where it shall be located.

Mr. THURMAN. Mr. President, I merely wish to call the attention of the Convention to the fact that we have disposed of this question heretofore, when we had the discussion on the school bill. Section 5 of that bill was first amended so as to make the normal schools separate from the university. Then, upon my motion, afterwards, section 5, with all of its amendments, was stricken out, and section 4 was amended by inserting location before establishment, confirming the location and establishment of the university and agricultural college, as they existed by law at that time. Now, the laws of the Territory in relation to the normal school say that the normal school shall be continued as a department of the

university, so that if we should adopt any measure, such as is here proposed now, we will have to go back and undo in part the work that we have done, disrupting the deliberate action of this Convention heretofore. While on my feet, I wish to say, if it was right and proper for us to establish at this time and locate a normal school separate and apart from the university, I would favor the location proposed by the gentlemen from the south, but I think it would be very unwise, even if it did not interfere with what we have done. I was very much impressed with the argument made by Professor Kerr, Professor Maeser and Doctor Talmage upon the question of union, and had it not been that we had already established the agricultural college, I should have favored union in all these branches of learning. Now, we are in a position that we can, without sacrifice, maintain union from now on; and I say let us commence to do that which is right and ought to be done.

Mr. FARR. Mr. President, I did not intend to say anything on this subject. My sympathies very much run in favor of Sanpete. I have been trying to study up something that we could do for Sanpete, because Sanpete is one of the oldest settled counties that we have in the Territory—not the oldest, but one among the early settled, and I would certainly be gratified if we could do something to encourage the people of Sanpete; but I find there are a great many here that are getting in a great hurry. I suppose they want to go home. I have attended a good many conventions—all the conventions that have been held in the Territory. I know how it goes in winding up. I tried to hurry in the start, you are all aware. I tell you gentlemen, I think it would be a great mistake at the present time to put the normal school down there. It would be a great injury to Sanpete. It would be a great injury to every county in this Territory

that has young students, young sons and daughters, to send to a normal school to be trained and qualify them to go into the business of teaching our children, and now we have got all the facilities necessary right here in Salt Lake, with all the great expense of that. But that is not the main thing. If we had a million dollars, there is another thing more important; that is we have got the facilities here of educating students to teach school. It is all right here, and now to go and take it away it would be robbing our students, our young sons and daughters that we wish to qualify for educating and teaching school, to take them off where they cannot get the facilities that they can get here, and post themselves on the branches that they have right here handy, while they are going to the normal school. But I do hope there is something we can give Sanpete in the way of public institutions, and I shall vote with both hands when that time comes, but I cannot vote today to take the normal school away from the university under the present circumstances. I think it would be a great wrong and injury to the Territory and to the people.

Mr. LUND. I want to say, Mr. President, that the Enabling Act provides for the establishment and maintenance of state normal schools.

Mr. ROBERTS. Mr. President, notwithstanding I made the motion this morning to reconsider the action of yesterday, I do not desire to have it understood that I am in favor of moving the state normal school to Sanpete County, or of dislocating it from its present connection with the university. Until conferring with my friend, Mr. Thurman, a few moments ago, I was of the opinion that section 5 in the article on education was passed by this Convention with the amendment that state normal schools might be established in other places than in Salt Lake City, but he calls my attention to a circum-

stance in connection with that section, that now clearly brings to my remembrance the fact that section 5 was stricken out by the action of the Convention. But with him, sir, I agree that section 4 settles this question, namely, that the location and establishment, by existing laws, of the university of Utah and agricultural college, are hereby confirmed, and all the rights, immunities, franchises, and endowments heretofore granted or conferred, are hereby perpetuated unto said university and agricultural college respectively. He has already read to us the law making the state normal school a part of the university, and now to locate the state normal school in Sanpete County would require a reconsideration of section 4 of the article on education, since this Constitution, by its provision, establishes the university as it now exists by law, including the state normal school with it. In the present status of our educational institutions, sir, the most important part of the university is the state normal school. There can be no question about that, and for this reason I maintain that the Convention, at this stage of the proceedings, is incompetent to make the change contemplated by this vote, to locate this institution down in Sanpete County. I doubt not, sir, that enough of fact has been pointed out here, as to the expense and the inconvenience that would be involved in removing the state normal school from Salt Lake City down into Sanpete County. There is only one other thing that I wish to call attention to in that line, and that is, since this debate has been going on upon the floor of the Convention, the present chancellor of the university has telephoned down to the Convention, that in his opinion the removal at this time of this state normal school from the university would afford good ground for the city authorities to refuse to ratify and complete the agreement by which the present site of the univer-

sity buildings in this city should be given to the university. It involves, I hold, too much of expense, too much of inconvenience, to engage in this removal in the present condition of our educational institutions.

And then, Mr. President, while it is true I voted to establish the agricultural college where it already exists, I would also call attention to the fact that if it were possible to keep centralized our educational institutions—that is, our higher educational institutions, I would be in favor of that policy, and I am not at all converted to the wisdom, and the propriety of thinking that each county must have some State institution to build up within its borders. I take, it, sir, that these State institutions are not for the purpose of increasing the benefits and making advantages in counties, but that it is a consideration for the good and welfare of the whole State. Yesterday, I was tempted to make a speech in a spirit of irony, when there was a clamor from outside counties, demanding part of the State institutions, to call to mind the fact that there are twenty-seven counties in the State, and I wondered for a moment if we were to follow the policy of giving eventually to each county some institution to build up belonging to the State, regardless of the convenience of the whole people of the State, and the mere geographical center is not always an advantage for a State institution. What ought to be more seriously considered, is the center of population and the conveniences of all the inhabitants of the State, and not merely county location. Why, sir, if I was converted to the idea that each county ought to have some State institution, I maintain that my own county of Davis affords facilities for some of these institutions that far outstrip those that are urged in favor of other localities, but, sir, I will have nothing to do with that. In locating these State institutions, I maintain that the good of

the institutions, and as they shall contribute to the welfare of the whole population, is the thing to be considered, and not merely the gratification of local interests and local prejudices. I am not here to stand up for Davis County particularly, but as a representative of the whole people of Utah, and to locate their institutions in the interests of all the people. So, sir, I am not wedded to this idea that seems to prevail in the minds of some members, which causes them to contend for the respective localities from whence they came. Now, sir, for these reasons, I am against the movement to take the state normal school from its present moorings with the university, since it constitutes one of the most important—the most important department of the university, and drift it away off from the center of population in the interests of a county, and I trust it will not be done.

Mr. LUND. Mr. President, by the last gentleman who spoke, I would take it that I am accused of wanting to gratify a locality.

Gentlemen, I must say that I am convinced myself that it would be a good thing for the State to place that institution in a central locality—central to those whose ambitions are to become school teachers, and where they can have the advantages of cheap and good substantial board, where they can enjoy the advantages of cheap fuel, where they can enjoy all the advantages that they really need, because the tuition is but a very little part that a normal has to pay when he attends a normal school. It comes in his board and in his lodging, the great expense. The other is no considerable amount and never has been. Now, if we want to place it within the reach of those who desire to attend such school, and get down to the benefit of those persons themselves who desire these accommodations, then I claim that it has not been the local self-gratification

alone that has prompted me to make the motion or introduce this section, but it has been for the good of those who would attend the institution—not that it would be simply a good thing for a city or for a county. We know that it would be; we know that our county is not an out-of-the-world sort of a place; it is only a hundred miles from Salt Lake City. We have both branches of the railroad there, daily communication, and the traveling to and fro does not amount to much when we take into consideration the cheapness of living in those parts. Now, I have not much more to say, but I think it would be a matter of right for this Convention to extend that courtesy and that privilege to Sanpete, because Sanpete has fifteen thousand people; Sanpete is located in the center of the Territory; Sanpete offers some inducements now and has had a great number of pupils always in normal schools in this Territory, and would have a greater support to offer in that way when the school should come down there. I do not wish to take up any more time, but if it is for the benefit of the State to keep the school elsewhere, or to leave it where it is, leave it there. One word more, the Enabling Act was passed sometime since the normal department of the university was established by the Legislature, and it says, "for the establishment and maintenance of state normal schools, one hundred thousand acres shall be given." It plainly meant for the establishment, after this act, and I think that therefore you would not be doing a wrong to the section in the educational article that we have already passed.

The amendment of Mr. Jolley was rejected.

The motion of Mr. Lund was rejected.

Mr. EVANS (Weber). Mr. President, I desire to offer a sixth subdivision for that article as follows:

A state normal school is hereby established and located at Salt Lake City, in connection with the university of Utah.

Mr. KERR. Mr. President, I arise to a point of order.

Mr. SNOW. I arise to a point of order. This was reconsidered for the sole purpose of considering the location at Sanpete.

The point of order was sustained.

Mr. EVANS (Weber). Mr. President, I just want to make this statement: It seems from the Enabling Act that on the establishment of state normal schools one hundred thousand acres of land are granted. Now, in order to get the benefit of this land, I think it would be a good idea to locate one of the schools. It is not locating any more than one, but just one school at Salt Lake City in connection with the university.

The roll being called on the adoption of the article entitled public buildings and state institutions, the result was as follows:

AYES—79.

Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Brandley	Maeser
Button	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Morris
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Robertson

Francis	Robinson, Kane
Green	Robison, Wayne
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Squires
Heybourne	Stover
Hill	Strevel
Howard	Symons
Hughes	Thompson
Ivins	Thorne
Johnson	Thurman
Kiesel	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Williams.
Larsen, L.	

NOES—4.

Boyer	Jolley
Corfinan	Lund

ABSENT—23.

Adams	Miller
Buys	Moritz
Crane	Peters
Gibbs	Ricks
Goodwin	Roberts
Hyde	Ryan
James	Spencer
Keith	Thatcher
Kimball, Weber	Thoreson
Lambert	Wells
Larsen, C. P.	Whitney.
Lewis	

The president declared the article adopted and referred to the committee on compilation and arrangement.

Mr. CREER. I vote aye, with the same qualifications I had yesterday as to the capitol building.

Mr. SNOW. Mr. President, I move that the rules be suspended and that the standing rule be amended by striking out the word "fifteen" and inserting the word "five."

The motion was agreed to.

The Convention then proceeded to the third reading of the article entitled salaries of public officers.

Sections 1 and 2 were read.

Mr. HART. Mr. President. I move to

strike out the word "salaries," in line 7, and insert the word "other," so that it will read as it was formerly reported by the committee.

The amendment was agreed to.

The roll being called on the adoption of the article entitled salaries of public officers, the result was as follows:

AYES—83.

Allen	Kimball, Salt Lake
Anderson	Larsen, L.
Barnes	Lemmon
Bowdle	Lowe, Wm.
Boyer	Lowe, Peter
Brandley	Low, Cache
Button	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Clark	Morris
Coray	Murdock, Beaver
Corfinan	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Robertson
Francis	Robinson, Kane
Green	Robison, Wayne
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Squires
Heybourne	Stover
Hill	Strevel
Howard	Symons
Hughes	Thompson
Ivins	Thorne
James	Thurman
Johnson	Van Horne
Jolley	Varian
Kiesel	Warrum
Kearns	Williams.
Kerr	

NOES—0.

ABSENT—23.

Adams	Miller
Buys	Moritz
Crane	Peters
Gibbs	Ricks
Goodwin	Roberts
Hyde	Ryan
Keith	Spencer
Kimball, Weber	Thatcher
Lambert	Thoreson
Larsen, C. P.	Wells
Lewis	Whitney.
Lund	

The president declared the article adopted and referred to the committee on compilation and arrangement.

The Convention then proceeded to the third reading of the article entitled schedule.

Sections 1 and 2 were read.

Mr. RICHARDS. Mr. President, I desire to offer a section to be known as section 3, as follows:

Section 3. Persons who, at the time of the admission of the State into the Union, may be confined under lawful commitments or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the Territory of Utah, shall continue to be so confined or held until discharged therefrom by the proper courts of the State.

The section was adopted.

Mr. VARIAN. Mr. President, I offer an amendment to section 2, to insert at the end of section 2 the following:

The act of the governor and legislative assembly of the Territory of Utah, entitled "an act to punish polygamy and other kindred offenses, approved February 4th, A. D. 1892," in so far as the same defines and imposes penalties for polygamy, is hereby declared to be in force in the State of Utah.

I desire to give a reason for this amendment, which I am impressed is a strong one. The Enabling Act requires the Convention to provide by irrevocable ordinance that polygamous or plural marriages are forever prohibited. In the ordinance adopted by this Con-

vention that declaration is made: "The following ordinance will be irrevocable without the consent of the United States and the people of this State." First, among other things, polygamous or plural marriages are forever prohibited. Now, while this is strictly in accord with the letter of the act of Congress, it is not in accord fully with the spirit of that act, because it must be confessed, I think, that it was the intention of the people of the United States assembled in Congress that a prohibition in fact, as well as by words, should be evidenced by the organic law of this State. Of course the declaration that we have already adopted in the ordinance is not self executing. It amounts to nothing except like one of the ten commandments. It might have the effect of a moral law upon the minds and consciences of those who look upon the Constitution as a guiding instrument for their lives. Nor have we accomplished the purpose, as I view it, by our declaration in the schedule, sought to be amended, that all laws of the Territory of Utah now in force shall be continued in force. The moment this State enters into the Union all congressional acts of this kind fail, so far as their operation is concerned, within this State. There was passed in 1892 by the Legislature of the Territory, an act substantially—indeed, I may say, literally in accord with, or following the act of Congress upon the subject. That act defines and provides penalties for the specific offenses, polygamy, unlawful cohabitation, adultery, incest, and fornication. Now, that law I apprehend is not in force in Utah to-day, and the reason is that Congress entered upon that field of legislation and covered the whole subject matter. There was nothing left for the territorial Legislature to act upon. That being so, it is not included within this provision of section 2, and if it is desired that there shall be a compliance with the intent of the act of Congress, and

with the understanding everywhere, in spirit, as well as in letter, it would be necessary for this Convention to make some positive declaration adding the force of law, which would be self-executing; that is, that the courts would undertake to execute it without further legislation upon the subject. This act of the territorial Legislature entered a field that was already occupied, and as long as the Congress had occupied that field, of course nothing was left for the territorial Legislature to act upon, and as I desire that there shall be nothing thrown in the way of the approval of this Constitution by those in authority at Washington, I make this suggestion to this Convention for their consideration, whether or not it will not be wise, having in mind the general conditions and circumstances attendant upon the passage of this Enabling Act, and the difficulties that theretofore had existed in bringing to a conclusion a long and laborious struggle, to in terms adopt and enact this first section relating to this particular offense already enacted by the Territorial Legislature.

Mr. MALONEY. You say the Legislature in 1892 invaded the field already occupied by Congress. On the approval of this Constitution by the President, would not that act of the Legislature be in just as full force and effect as any act of the Legislature which is continued in full force by section 2 of this act?

Mr. VARIAN. No.

Mr. MALONEY. Why not?

Mr. VARIAN. Because you can only continue in force a law. If there is anything in the form of an act that is not a law—for instance, we will say it were unconstitutional; simply by a declaration continuing a dead act in force, when it never was in force, does not accomplish what you purpose doing. It is clear what this Convention intended to do—all laws now in force. It did not intend to revivify laws or acts purporting to be laws which were

never in force or which were unconstitutional. We take the territorial legislation as we find it, and every law that is in force at the time of the adoption of the Constitution will be continued. I personally care nothing about it.

Mr. RICHARDS. The purpose of this, as I understand, is to make this act irrevocable, so far as polygamy is concerned; is that not so?

Mr. VARIAN. No, I was not thinking of that so much as I was of the positive declaration—

Mr. RICHARDS. Would not that be the effect of the amendment?

Mr. VARIAN. No, I do not think—

Mr. RICHARDS. I asked you to look at it and think—

Mr. VARIAN. Well, I have said no. I say no again. It would not be the effect of it, and I was going to say, Mr. President, that there is no power on earth, in the Congress of the United States, that can force from this people an irrevocable law. That is the merest illusion in the world. This people can next year amend this Constitution, and strike out everything concerning polygamy if they want to. Every lawyer knows that. It is just a question of their own good sense and judgment whether they shall do it or not.

Mr. RICHARDS. It seems to me that my question was not apprehended. When I spoke about a law being irrevocable, of course I did not refer to the amendment to the Constitution. That could not be repealed by the Legislature, I take it.

Mr. VARIAN. I don't know why the gentleman should ask me a question like that. Of course, if it is in the Constitution it cannot be repealed by the Legislature. I care nothing about it myself; I am firmly convinced that it will add very materially in aid of the adoption of the Constitution.

Mr. THURMAN. I desire to ask Mr. Varian, if the amendment you propose would not enact a great deal more than

congress requires of us in the Enabling Act.

Mr. VARIAN. In what way?

Mr. THURMAN. Well, if I remember that act, it goes into detail.

Mr. VARIAN. Well, but the amendment confines it to that particular matter. It does not touch the other offenses mentioned in this act at all. It does not touch cohabitation, nor adultery, nor incest, nor fornication.

Mr. RALEIGH. Mr. Varian, will this be in the hands of the Legislature?

Mr. VARIAN. Yes; perhaps I did not make myself clear. The Legislature can of course enter upon this field; but here we are, in this situation: When this Constitution goes back, after it has been adopted by this people, if there is any opposition to it, it will be concentrated at Washington. I presume there are a number of things, possibly, that may be brought up by those who are opposed to the admission of Utah as a State, numbering a large number of classes of people, in the United States. Then, it will be said, I apprehend—the Congress of the United States, as a condition of giving this Enabling Act to the people of Utah, exacted, or attempted to exact from them an impossible condition; that is, that they should make the enactment of a penal prohibition irrevocable; but it was the intention of the act; they will say to the people of the United States, that this people would not only literally but in spirit conform to this Enabling Act, and the wishes of the people of the United States in that particular. They have not done it. They have evaded that question by putting in a mere declaration which is not self-executing, and the moment the President of the United States issues his proclamation, there is not a law in the State of Utah that affects this question; and who will say when the Legislature will act upon it? Who can say whether you can get votes enough in the Legislature to pass affirmatively an act? That is what they will say. At

least, that is what I offered this for, upon the theory that some misapprehension of that kind may exist.

Mr. JAMES. Mr. President, of course, I am not able to discuss this question from its legal standpoint, but I do believe that there is a great deal in what the gentleman from Salt Lake has just said. You will remember, Mr. President, when this matter came up in the bill of rights, it was suggested by the gentleman from Cache, that it was not broad enough to cover the requirements of the Enabling Act, and he made some remarks upon it, and so did I at the time, and I believe still that the words used in the bill of rights, that it shall be forever prohibited, are not sufficient to cover the requirements of the Enabling Act. The Enabling Act, to my mind, requires of this Convention that they should do something specific, that it should be understood, that it should not be a general declaration. The language is such that perfect toleration of religious sentiment shall be secured, etc., and ends "provided that polygamous or plural marriages are forever prohibited." Now, you see it is the language of the Enabling Act. It is based upon a condition, and in order to carry out the requirements of that Enabling Act, you must say something specific regarding what this Constitution shall be and how it shall be enforced, and I believe the gentleman from Salt Lake (Mr. Varian) is very correct in his position. I believe that it will raise a question, when this Constitution goes back to Washington, whether we have complied with the Enabling Act strictly regarding this provision.

Mr. EVANS (Weber). Mr. President, I am of opinion, as I stated before, when we had the question of ordinance before the Convention, that we have already strictly complied with the Enabling Act. I do not believe that there is any danger respecting the proclamation of the President on that question.

I do not think any issue will ever be made. We have upon our statute books a law punishing polygamy and kindred offenses, and which, as has been stated by Mr. Varian, is properly ineffectual and void, because Congress had invaded the same field of legislation. There has always been a difference of opinion between lawyers respecting that particular question. I believe that the law upon the statute books would be in force upon the adoption of this Constitution, under section 2 of the article we are now considering. If the view be taken that that law was unconstitutional and ineffectual at the time of its passage, a nice constitutional question arises here upon Mr. Varian's amendment, that is, as to whether a void law can be revived and given life by reference to it in the Constitution which we are framing. It is a generally well understood question that constitutional conventions have no legislative power. Although we say that we are legislating all the time in our Constitution, yet in the broader sense we have no power to legislate in a general way, such as is generally given to a legislature. Now, is not this an attempt to do that very thing? Is not it an attempt here in this Convention to legislate upon the statute books a penal law punishing the offense named. That is to say this Convention is attempting to revive what is termed by the gentleman a void law. It is attempting to revive something upon the statute books which in itself was a nullity. Now, I don't take that view. I believe the law was valid. I have always entertained that view, and I believe that it would be in force upon the adoption of this Constitution, and for one, I cannot support this amendment, because I believe it to be wholly unnecessary and an unusual method of making a Constitution. To revive a law or to make a law out of that which is pretended to be ineffectual and void, by reference to it merely in a

Constitution, is certainly a very singular thing.

Mr. SQUIRES. I would like to ask the gentleman, provided this act, approved February 4, 1892, is a valid law, what is to prevent the next Legislature or any succeeding Legislature from repealing it?

Mr. EVANS (Weber). There is nothing at all.

Mr. SQUIRES. Then, we certainly will not be complying with the Enabling Act.

Mr. EVANS (Weber). There is nothing at all. No. The Congress never understood that the people of Utah would not repeal this particular law which punishes the offense named. As has been properly stated by Mr. Varian, as a matter of constitutional law, we have the right at any time, when we secure statehood, to revise and repeal and amend our Constitution and to leave this out altogether. The people in their sovereign capacity would have the right, if they saw fit, to resume the practices which they have practiced heretofore, by proper amendments to the Constitution. This is an inherent power, an inherent right. Judge Cooléy lays it down as clearly as can be in his work on constitutional limitations, and I think no lawyer will dispute it. As I understand it, this is simply designed for the purpose of satisfying the authority which will proclaim Utah a State. That is all. Now, that being the only purpose of it, I think we have fully complied with the Enabling Act, when we use its exact language and say that polygamy shall forever be prohibited in the State.

Mr. EICHNOR. Do you mean to say that any constitutional convention in the future could nullify the compact with the United States?

Mr. EVANS (Weber). Oh, no. That is, because of the fact that that would be prohibited by the Constitution of the United States itself, but the Constitu-

tion of the United States does not place any restriction upon the states with respect to the practice of polygamy or kindred offenses. Consequently, we would have a right to reform our government just as we please.

Mr. KERR. I would like to ask Mr. Varian or Mr. Evans a question. In the article on ordinance, is the statement that polygamous or plural marriages shall forever be prohibited. I desire to ask, if, under this provision, the Legislature could repeal the law which defines those offenses and provides punishments for violation?

Mr. VARIAN. Does the gentleman ask me?

Mr. KERR. Either gentleman.

Mr. EVANS (Weber). I think it would have that right.

Mr. VARIAN. I prefer to answer it myself, if the gentleman is asking me. I am quite satisfied that my position is confused and not understood, or at least it seems so from the remarks of Mr. Evans. It is this: First, that there is no territorial law on the statute books (when I say law, I mean valid law) touching upon this question. That may be tested by any canon of common sense. There was a congressional law on the statute book fixing certain penalties. Supposing the Territorial law had fixed other penalties, which would prevail? You cannot occupy the same space with two different lawmaking bodies at the same time. Second, that being so, they will say when this Constitution is adopted there is no law touching this question. There is nothing that will evidence the good faith of this people upon this question. And it will be a makeweight upon the proposition, is my idea, unless something of this kind is done, showing that this Convention intends to carry out the spirit as well as the letter of the Enabling Act.

Mr. EVANS (Weber). If that is your purpose, why not say in the ordinance, it is declared to be a felony?

Mr. VARIAN. Because, I do not agree with you at all in your criticism, that this Convention is not able to legislate in this way. I draw a distinction between legislating in matters now existing in the Territory and legislating in the Constitution for the future State.

Mr. GOODWIN. Mr. President, Mr. Evans says it would be an unusual proceeding, and probably it would, but the circumstances are unusual. This has never confronted any other territory, when applying for statehood, and the point in it is this, when Mr. Thurman, the other day, thought that the article in the ordinance was not sufficient, that it ought to be strengthened, I was in hopes his idea would be carried out by the Convention, solely as an evidence of good faith. It won't make any difference in the future. There is no state where the laws are enforced against the public sentiment of the people. Now, if public sentiment of the people of this Territory is that the ordinance shall be backed by legislation which will make penalties and enforce them, that will be done. If a change should come, and the sentiment should be that it was nobody's business, we will do what we please, that will be the rule. The question that confronts us is just this: We know that almost every church organization outside of Utah in the United States will scan this Constitution; they will study it with a disposition to, if possible, find some fault in it. Now, when they do that, and there is merely a declaration that there will be no more polygamy, they will simply laugh. They will say, "those people have simply made a declaration and have provided no means on earth to enforce it." It is not what is to be after statehood is obtained, but it is how to obtain statehood. For instance, the President of the United States, is, I am told, a member of the Presbyterian church. I think he is a little lax [laughter], but no matter. He may have fixed it all

right with his own soul. He professes to be a Presbyterian. He has a great many Presbyterian friends. He is a lawyer. He construes things exactly as I would construe them, when he has the capacity to. [Laughter.] Now, when this Constitution is carried up to him, we will suppose a case. We will suppose in the same election by which this Constitution is approved, there should be republican officers elected all over this State. He not only will have the Presbyterian church behind him, but he will have every democratic office holder in Washington and all through the country telling him that there is a point where he can afford to delay. It won't make a bit of difference to Utah what is in this Constitution in regard to that particular matter. The idea is to have something to present to the President, which he and his friends can find no flaw in; that is, that the Enabling Act has not only been carried out in the letter, but the means have been provided to enforce its mandate.

I had intended to offer and try to argue an amendment to the ordinance. This amendment this morning covers the case, and what objection is there to passing it? Are we at this time in the Convention going to say it is legislation? It is on a theme that we have no precedent for. We are confronted here with this condition. The Enabling Act tells us that we must (and I presume means in an effective way) declare forever against polygamy and plural marriages. We ought to do it in such good faith that there would be no question about it. If two years hence, or four years hence, the Legislature desires to do anything else, it can do it. If the Constitution is adopted and Utah is admitted as a State, the people can revise or call a convention, and make a new Constitution within a year or two. Let us go as the sovereign states went. Every one of them had statutes. They had provisions in

regard to slavery, that there should be no more slavery or involuntary servitude. It was finally enacted in the Constitution of the United States, and other provisions; and while some of them did not intend to keep those provisions, there was nothing in what they presented that there could be any criticism of. As far as the words go, the words were apt. They said, "I care nothing about the future. I am perfectly willing to trust it. I have perfect faith it will be all right." But let us fix it so that the President of the United States, at least, cannot, in his obstinate way, say: "It does not suit me, you had better go back and try it over." You know, Mr. President, he does not want any more silver congressmen. You know he has peculiar ways. Once or twice he has pretty nearly neutralized the law, and when eight or ten of his constituents get around him and tell him he ought to do it, then he takes it upon himself to think that he was raised up by God Almighty to be the savior of the United States, and when a man gets in that frame of mind, there is no telling what he will do. Let us fix it so that neither he nor his friends can criticise one word. It will make no difference to Utah. Let us act in absolute good faith, so far as our words are concerned, and have it fixed so that a penalty, if that is disobeyed, can be inflicted.

Mr. MALONEY. Mr. President, I do not concur in the views of the gentleman from Salt Lake. The Congress of the United States provided that in Utah we should stop these practices and in a great measure have enforced that law. In 1892, through our Legislature, we said we would quit that. Now, the position of the first gentleman from Salt Lake who spoke, is that the act of 1892 is an absolute nullity, that it is null and void, because the Legislature of Utah had invaded a field previously occupied by Congress, and

therefore, it is void. I do not agree with him on that, but, of course, if the two acts were in conflict, the law of Congress must prevail. But they are not in conflict. As I remember, in our act of 1892, we went still farther than the Edmunds-Tucker bill. Now, there is no court that has ever declared the act of 1892 of our Legislature unconstitutional, or null and void, that I ever heard of. I claim it is in force now and has been ever since it was enacted. The reason it has never been enforced is because the prosecuting attorney of the Territory preferred the congressional enactment, and preferred the penalties imposed by the Edmunds bill, and the Tucker-Edmunds bill. If Mr. Varian is right, and that act was void, I say section 2 of this act breathes life into it, and makes it just as valid as any other territorial enactment.

Mr. VARIAN. How can you take that position when it says the laws of the Territory of Utah now in force—

Mr. MALONEY. I say it is in force, but I say, conceding for the sake of the argument, that it is a nullity, it is in force by section 2 of this act. I do not agree with Mr. Varian that it is not in force, and never has been. I do not think the proposition is tenable. Now, if the President is so hard pressed for an excuse that that will be the excuse for not issuing the proclamation, when the Enabling Act makes it obligatory upon him, it is a mighty slim excuse, and other excuses will be provided if he does not have this one. Now, I say we have strictly and literally complied with the Enabling Act, and I think it is wholly unnecessary.

Mr. ANDERSON. Mr. President, I am opposed to this amendment. I think that the Enabling Act is fully complied with at present, and I do not think that it is necessary that we pursue this question with any further special legislation. Therefore, I am opposed to it, and will vote against it.

Mr. THURMAN. Mr. President, at

first I was opposed to the amendment proposed by the gentleman from Salt Lake until he stated his reasons for it, and having heard his reasons, I shall now support the amendment. I think it ought to prevail. I agree with him (while not wishing to engage in any discussion on that branch of the question) in believing that the law of 1892, passed by the Legislature, was absolutely void and of no effect, and never has been, for the reason suggested by him. I had occasion to go over that ground, in 1888, in the Legislature, and came to the conclusion that the territorial Legislature had no power whatever to deal with that question, unless it might have been perhaps some ancillary legislation—something that had not been touched upon by the Congress of the United States. When he first proposed his amendment, I did not think that that act, not being in force, could be revived, and thought it was fully covered by section 2 as it stands. I have some doubts whether the ordinance that we have adopted is a sufficient compliance with the Enabling Act, at least in spirit. It is true, that we use the exact words of the Enabling Act, but if this territorial act is without force, and is void, we will at least find ourselves in this position, that while we have declared in the Constitution that polygamous marriages are forever prohibited, when the Constitution goes into effect, and before the Legislature sits, we must say there will be no effective law upon this subject at all in force in this State. The declaration that we make in the ordinance is not effectual except in a normal sense. The moral effect of the whole State by its representatives in Convention, declaring that a certain thing shall be forever prohibited, of course has great weight, but there is a view that may be taken of that, which is this, that at most it is merely an inhibition upon the Legislature ever sanctioning an establishment of that kind, but it is not a law

against it with penalties. In other words, it is without effect. Now, I think I have taken the position to do everything that I think I can conscientiously and consistently do to present this to the President of the United States, without the instrument containing anything in itself which will afford him a just reason for rejecting it by saying that it does not comply with the Enabling Act. I think, gentlemen, we who have labored here to make this Constitution up to this time, ought now to obtain the fruits of it, to do everything we can upon this or any other occasion, to put this matter before the President of the United States in a way that he will have no excuse in the performance of his duty. For the reason suggested, and by way of showing a more determined disposition upon our part to comply, not only in the letter, but in the spirit, with the demands of the Enabling Act, I shall support it.

Mr. MALONEY. Do you suppose the Congress required us to legislate in the Constitution?

Mr. THURMAN. Well, I wish to say to the gentleman from Weber, that upon this proposition, it has come very near requiring it. If it was anything else, I would agree with you, but they say that we must provide by ordinance, irrevocable without the consent of the United States, that a certain thing shall forever be prohibited.

Mr. MALONEY. Which we have done.

Mr. THURMAN. Have we provided it, or have we merely declared it shall be prohibited?

Mr. MALONEY. We have literally followed the language of the Enabling Act.

Mr. THURMAN. Have we prohibited it?

Mr. EVANS (Weber). Let me ask you a question. Is not it just as much prohibited as slavery is prohibited in the Constitution of the United States?

Mr. THURMAN. It seems to me—

Mr. MALONEY. The language is, "polygamous or plural marriages are forever prohibited." If that is not prohibiting, I don't know what they could do to prohibit. But while on the floor, I will say I will vote for the amendment, but I think it is absolutely unnecessary.

Mr. THURMAN. I want to ask you a question. Suppose a polygamous marriage is contracted after we become a State, is there anything to prevent it?

Mr. MALONEY. There is a constitutional declaration against it.

Mr. THURMAN. Does that prevent it?

Mr. MALONEY. I think it does.

Mr. THURMAN. In what way?

Mr. MALONEY. By the very language.

Mr. THURMAN. It says it shall not be done. Where is your penalty?

Mr. MALONEY. There is an act of the Legislature already in existence.

Mr. THURMAN. I am taking the position that it is not in existence.

Mr. MALONEY. There is where I differ from Mr. Varian.

Mr. THURMAN. You have made your speech on that. I am making one on the other side.

Mr. EVANS (Weber). Then point out the penalty if you can find it, where the penalty is for slavery.

Mr. THURMAN. I believe that when the Constitution of the United States said that slavery should forever be prohibited, every state in the Union had a provision of that kind in force.

Mr. EVANS (Weber). Oh, no.

Mr. THURMAN. Well, they came pretty near it.

Mr. EVANS (Weber). They were compelled to put it in after that.

Mr. THURMAN. They did put it in, but that has nothing to do with the question. The Constitution of the United States, with that provision, did not have to be passed upon by some functionary above the United States. We are talking here now about what this great—his majesty, may do. I be-

lieve we are all in good faith on this question. I do not understand that anybody here impugns the good faith of this Convention, but the question is to show it.

Mr. VARIAN. May I answer that question, as to the Constitution of the United States?

Mr. THURMAN. Yes, sir.

Mr. VARIAN. The thirteenth amendment provides that neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States. That would be made operative simply by the affirmative action of the federal courts, by releasing men from slavery. It would require no further legislation.

On motion, the Convention then took a recess until 12:30 p. m.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, President Smith in the chair.

The PRESIDENT. Gentlemen, section 2, with the amendment of Mr. Varian, is now before the house.

Mr. ROBERTS. Mr. President, I am in favor of adopting the amendment offered by the gentleman from Salt Lake. I think, sir, that it should prevail. First and principally, that it may appear without any equivocation whatsoever, that in absolute good faith, the people of Utah intend to carry out the condition upon which statehood is to be granted to the Territory, for Congress did require, by its Enabling Act, an express stipulation upon this subject, and I believe its intention was to have a declaration that would be effective and not merely an empty assertion, and I think a provision of this character is absolutely necessary to the document we are drafting in order to establish beyond all question the fact that we intend to carry out to the letter our agreement as expressed in the compact with the United States; but, sir, I do not think that this amendment should

be adopted by this Convention in the spirit in which it was discussed by the gentleman from Salt Lake this morning (Mr. Goodwin). One of the reasons urged for having a stenographic report of these debates, as I understand it, was for the purpose of assisting those who will interpret the Constitution, in understanding what the intent of the Convention that framed the Constitution was; and, sir, if we adopt this amendment in the spirit in which that gentleman discussed it, those who shall interpret the Constitution in the light of what was said upon the various propositions would be led to conclude that this amendment was not adopted by the Convention with any real intention to have it put in force, but merely for the purpose of removing from the eyes of the President of the United States, who is to pass upon this instrument, and his counselors, and to silence any opposition that might be raised against it on the part of sectarian peoples throughout the United States, and that it was not a real bona fide determination on the part of this Constitutional Convention to carry out that provision with good intent.

Now, sir, I scorn all such proceedings as that. I believe that what we do here, we do with real intent of heart and without nonsense, and for that reason, and in this spirit, we should adopt this amendment, and then have it carried out just as it is intended to carry it out. I hope, sir, that these remarks and the remarks that other gentlemen have made, and doubtless will make upon this provision of the Constitution, will have the effect of removing from the proceedings of this Convention this seeming insincerity, which ought not to exist in a Convention of this character. Why, sir, we would give little credit to the intelligence of the man who is to pass upon this instrument, before our labors shall be finally completed, in bringing Utah into the Union, if we suppose that he

could not see through this flimsy screen that it is proposed to cast over our conduct here, if we let this provision go in under the spirit of that discussion; and, sir, I hold that we ought to adopt it in a spirit of earnestness and with honest intention to make it effectual.

Mr. VAN HORNE. Mr. President, it seems to me that the discussion of this question raises a question of construction on the intent of the Enabling Act, and if that be so, it occurs to me that the way in which we propose by the amendment to remedy any doubt which might exist is not the proper way of proceeding in this case. The Enabling Act provides that the Convention shall provide by ordinance, irrevocable without consent of the United States and the people of said State, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship, provided that polygamous or plural marriages are forever prohibited. In accordance with that and in the strict pursuance of the letter of the requirement, we have by ordinance provided directly what we had to provide under that Enabling Act. The question comes simply on our compliance with the spirit of the Enabling Act. No one doubts but the letter has been complied with. If it be necessary for us to comply with the spirit of the Enabling Act as well as with the letter of that act, would it not have been the proper way for us to have put into the ordinance, irrevocable, without the consent of the United States, and all the people of the State, the necessary legislation to show that we intended to carry out the spirit of that enactment? If so, the article should have been put in directly following the first subdivision of the ordinance. That not having been done, the question comes as to what is the better way to provide for this meeting the

spirit or supposed spirit of an enactment by Congress. It seems to me that the kind of amendment contemplated is improper and not the best plan for several reasons. The Constitution is not complete in itself. It refers to something outside of the Constitution, as a means of interpreting the intent of the framers of the Constitution. It leaves to future construction the question of whether that was a law, or whether, by our reference to it in this Constitution, we made it a law that was binding upon the people of this Territory and could be enforced. My idea is that if Congress intended anything by the requirement that we should pass such a provision in an article irrevocable without the consent of Congress—if they intended anything more than is meant by the moral prohibition, that would be included in the strict following of the words of the Enabling Act. It intended that by putting a provision of that sort in the Constitution, Congress might, by legislation, refer the enforcement of that compact to United States courts. If they did so intend, the question before us is, does the amendment, as it is now proposed, meet that objection of the act?

The PRESIDENT. The gentleman's time has expired.

Mr. CHIDESTER. Mr. President, I desire to move the previous question.

The PRESIDENT. With the permission to Mr. Varian to close, as it is Mr. Varian's motion.

Mr. VAN HORNE. Mr. President, I wish to move the insertion of a provision to be called section 3 in this article.

The PRESIDENT. We have just had section 3.

Mr. EVANS (Weber). If the Convention will permit it, I want to make a suggestion or two. I am of opinion, Mr. President and gentlemen of the Convention, that the proposition made by Mr. Van Horne is right. We are now considering what we call a sched-

ule. If we are simply attempting to comply with the Enabling Act—and want to make a prohibition of polygamy effectual, we should put it in the ordinance, as it is required that an ordinance be passed, which would be irrevocable without the consent of the United States. Of course, I do not recede from the position which I took this morning upon this question, and I now simply want to call attention, gentlemen, to one fact, that the amendment proposed by Mr. Varian points out one class of offenses and seeks to revive and bring into life a law which is admitted by the gentleman to have been ineffectual and void, and it only revives that one particular class of offenses. There are kindred offenses in the law of 1892, indeed, all the offenses which were named in the act of 1887. If this amendment prevails, the result will be this, that if that law is ineffectual, or whether it is effectual or not, the one class of offense, only named in the amendment will be continued in force. So far as the other class of offenses, and many of them are more odious than the one aimed at, it will be repealed, and the people of Utah will be permitted to violate those laws or engage in that class of offenses with impunity. Mr. Varian will not dispute this proposition, because this Constitutional Convention is simply pointing out the one class of offenses, that of polygamy; whereas numerous other classes of offenses in the same law are not covered, not only by any law of Congress, but are not covered by any law of the Territory; and it is class legislation of the worst sort, and not only that, it seem to me like impugning the good faith and the integrity of the people of Utah when they renounced this practice. If we are not ready to go into the Union under the present condition of things as we understand them, let us stay out. A law which does not have the moral sentiment of the people can never be enforced in any

way. That is a common and well know maxim of law. Why, then, point out a particular offense in the manner in which it is pointed out in the amendment of the gentleman, and why undertake to insert it in the schedule, which the Enabling Act does not provide for at all, upon the shallow pretense that it will be satisfactory to the executive of the nation? Gentlemen, if you want a state, do that which is sensible, and do that which is right, do that which is patriotic, that which is honorable. If we cannot get statehood by going through the front door, let us not sneak around like a burglar through the back door, for the purpose of securing that which we are all desirous of obtaining. If you want to defeat statehood, transcribe from the reporter's notes the remarks from the gentleman this morning, castigating the chief executive of the nation and holding him up in ridicule, and send a transcript of those notes to the President and show him the estimation in which he is held in a Convention sitting, under an Enabling Act, whose actions he must approve, and then see what the result will be, and that, too, by one of the leaders of the majority upon this floor. I do not entirely agree with my friend, Mr. Roberts, on this, but I agree with him upon one point, that such remarks coming from any gentleman respecting the chief executive of the nation are an insult to that officer.

Mr. ANDERSON. I would like to ask if the substitute of Mr. Van Horne is before the house?

Mr. VARIAN. No, sir. Mr. President, I do not propose to attempt to answer the arguments of my friend from Weber County. Driven from position to position he flutters about, and appeals to this sort of prejudice and the other sort of prejudice, when we are dealing with a legal question first, and a question, of expediency next. Whether this shall be admitted into the schedule or the ordinance makes no difference. The

question we are disposing of now is the question as to whether it shall be put in at all or not, and after that shall have been disposed of, we may determine in what part of the Constitution it shall be placed. It is the sheerest pettifoggery to distract and disturb the attention of the Convention to a point of that kind.

In 1888, a similar law was introduced into the territorial Legislature of this Territory. My distinguished friend, Mr. Thurman, from Utah County, whose keen and analytical legal mind always adorns and adds to every question he discusses, then was chairman of the committee on judiciary, and he wrote a report to the Legislature right on the line of his speech to-day, in the line of my thought and argument this morning. I do not remember who his associates were upon the committee. I have not been able to get the volume of the journal of that year, but the proposed act was rejected, because it was in conflict with the law of Congress. In 1892, four years later, my distinguished friend from Weber County was chairman of the judiciary committee of the council. This present act was presented. It was reported by that committee through its chairman, with Mr. Baskin, now mayor of this city, a lawyer of forty years' standing, presumably acquainted with the jurisprudence of the Territory and of the United States, presenting a minority report at great length upon the same line, resurrecting and adopting with approval the report of my friend, Mr. Thurman, the chairman of the judiciary committee of 1888. It went through, but there was no other lawyer on the committee on judiciary, except my friend, Mr. Evans, as I remember it. It went into the house, there passed without question, a layman being chairman of the judiciary committee. I take it, that the people of this Territory have once decided in the Legislature that this act, which was subsequently passed in 1892, was in con-

flict with the law of Congress and void. Now, if that be so, what sort of a law have you upon the statute book to indicate to the people of the United States and to the Congress that you are in earnest and in good faith in your manifesto that you all adopted here two or three years ago? Gentlemen say that it ought not to go into this part of the Constitution, and yet in the preceding lines of this very section, you have undertaken to carry into effect in the coming State all laws which are in force in the Territory of Utah. If this act were a law, if it were in force, of course it would be included within the general provision, and there would be no necessity to make special provision for it; but not being in force, it is necessary, in order to comply with the spirit as well as the letter of the act Congress, and the intention of the people of the United States, and as my friend from Davis says, the bona fide intention of the people of Utah, that you should place this declaration upon the statute book. I am tired of quibbling and playing with these questions. I am here in good faith. I gave up two years and a half ago. I want statehood, and I want it the coming January, and I do not desire to play fast and loose with these questions. If you are in good faith, as you say you are, it will be asked, why do you object to placing upon this statute book, the organic law of your commonwealth, the fact you do intend to prevent the crime of polygamy? What does "prohibit" mean? Does it not mean prevent? I ask my friend from Salt Lake, and colleague, more learned in philological lore than myself, whether it is one of the synonyms of prevent, and if the interpretation must not be put upon the use of that language in the act of Congress, that it means to prevent the practice of polygamy and plural marriage? How are you going to prevent it, unless you put some penal enactment into force that the courts and executive officers under

your State government may be able to administer your law well in that behalf? In reply to the gentleman who last spoke, I did not undertake to inject into this organic law legislation on the subject of other offenses; it was not involved in the act of Congress; I care nothing about them, and simply seek to meet the issue which I believe is tendered to these people, and I want to remind you all that in the construction of law, civil law as well as the law of God, and religious law, that it is the letter that killeth, and the spirit giveth life.

Mr. EVANS (Weber). I would like to ask you a question. The gentleman will agree with me that your amendment will repeal the other kindred offenses in that statute?

Mr. VARIAN. No; there is nothing to repeal. If you want the other kindred offenses, my answer is, prohibit them by law under penalties. Your Legislature that meets in March next must enact a law. I do not enter upon that subject, because I am not meeting that issue. I am simply meeting the issue which is tendered here, as I think, to carry out in spirit the act of Congress and the will of the people of the United States, so that no stumbling block may be thrown in the way of this onward march toward statehood; and I agree with my friend from Davis—I do not put it upon the grounds that were stated here this morning, I do not like a sneak. I would not desire anything to be done that was not done in good faith, but I believe that this people intend this in good faith, and therefore I believe that they will ratify this action here to-day.

Mr. EVANS (Weber). I would like to ask a question. Suppose the act of 1892 were valid?

Mr. VARIAN. If the law were valid, I should not then introduce—

Mr. EVANS (Weber). Wouldn't it then repeal everything except the polygamy?

Mr. VARIAN. If the law were valid, it might repeal by implication, although repeals by implication are not favored.

The motion for the previous question was agreed to.

Mr. GOODWIN. Mr. President, I arise to a question of personal privilege. I find that the harmless remarks of mine this morning have been construed into very great disrespect to the President of the United States. I wish to say no gentleman has more reverence for the high office of President of the United States than I. I wish to say that the man in that office is entitled to just as much respect as he can inspire, and if the present incumbent is entitled to any more respect now than when he was sheriff of Erie County, it is because of his acts. I ask this Convention to put this thing, that there might be nothing in the way of statehood, and I pointed out that he has before now nullified certain laws of the United States—one, the silver law for four months, one, the Chinese law, for four months. I wish now to point out further that he has thrown every opposition over all the west, kept people poor, from settling the lands—

Mr. THURMAN. Mr. President, I arise to a point of order.

The PRESIDENT. I think the gentleman is overstating the question.

Mr. EVANS (Weber). Let the gentleman proceed if he wants to drive a nail in his coffin.

Mr. GOODWIN. I only want to say this, my friend from Weber can put it in with the balance of the speech to send to his majesty, as the gentleman from Utah called him, to show that the republicans in this Convention do not care one straw for him personally.

Mr. MALONEY. Mr. President, I wish simply to state now for the purpose of explaining my vote, that since speaking I have investigated the question carefully and I have come to the conclusion that the act of February 4,

1892, is still in force, and this is simply unnecessary.

The roll being called on the adoption of Mr. Varian's amendment to section 2, the result was as follows:

AYES—72.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Brandley	Lemmon
Button	Lowe, Wm.
Cannon	Lowe, Peter
Chidester	Lund
Christiansen	Maeser
Coray	Mackintosh
Corfinan	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Nebeker
Eichnor	Page
Eldredge	Partridge
Emery	Peterson, Sanpete
Engberg	Preston
Farr	Raleigh
Francis	Richards
Goodwin	Roberts
Green	Robertson
Hammond	Ryan
Hart	Sharp
Halliday	Shurtliff
Hill	Snow
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Thompson
Johnson	Thurman
Kiesel	Van Horne
Kearns	Varian
Kerr	Wells
Kimball, Salt Lake	Whitney
Lambert	Williams.

NOES—16.

Anderson	Low, Cache
Boyer	Maloney
Call	Maughan
Evans, Weber	McFarland
Evans, Utah	Peterson, Grand
Heybourne	Robison, Wayne
Howard	Thorne
Jolley	Warrum.

ABSENT—16.

Adams	Lewis
Barnes	Miller
Buys	Peters
Clark	Ricks
Gibbs	Robinson, Kane
Haynes	Spencer
Keith	Symons
Kimball, Weber	Thatcher.

PAIRED—2.

Pierce	Thoreson.
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The president declared the amendment adopted.

Mr. KERR. Mr. President, Mr. Pierce stated to me just before leaving this morning that he would be unable to be present this afternoon and desired to be paired. I told him I could not pair with him, because I would vote for the amendment, but I would try to get someone else to pair with him. I have not found anyone. I wanted to make that explanation.

Mr. THORESON. Mr. President, I would like to explain my vote. I believe that we are here trying to make an enactment here in this Constitution of a law that is in full force in the State, and will be so after the Constitution is adopted, and I will therefore vote no, but I will pair with Mr. Pierce.

The PRESIDENT. The amendment has been adopted, gentlemen.

Sections 3 and 4 were read.

Mr. RICHARDS. Mr. President, I desire to submit an amendment to section 4, as follows: Add to section 4, after the word "Utah," in line 21, the words "and all fines, taxes, penalties, and forfeitures, due or owing to any county, municipality, or school district therein, at the time the State shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the county, municipality, or school district, as the case may be, and the payment thereof may be enforced under the laws of the State."

The amendment was agreed to.

Sections 5 and 6 were read.

Mr. VARIAN. Mr. President, I move to strike out section 6 and substitute the following:

Section 6. All actions, cases, proceedings and matters pending in the supreme court and district courts of the Territory of Utah, at the time the State shall be admitted into the Union, and all files, records, and indictments, relating thereto, except as otherwise provided herein, shall be appropriately transferred to the supreme and district courts of the State respectively; and thereafter all such actions, matters and cases shall be proceeded with in the proper State courts. All actions, cases, proceedings and matters which shall be pending in the district courts of the Territory of Utah, at the time of the admission of the State into the Union, whereof the United States circuit or district courts might have had jurisdiction had there been a state government at the time of the commencement thereof, respectively; and all files, records, indictments, and proceedings relating thereto, shall be transferred to the United States courts; provided, that no civil actions, other than causes and proceedings of which the United States courts shall have exclusive jurisdiction, shall be transferred to either of said United States courts, except upon motion or petition by one of the parties thereto, made under and in accordance with the act or acts of the Congress of the United States, and such motion and petition not being made, all such cases shall be proceeded with in the proper state courts.

Mr. VARIAN. I will state that section 6, as it now stands, is incongruous, and would be absolutely ineffectual in many particulars, and after considering the removal acts of the United States, and this section itself, and the subject matter that we disposed of, I have, with the advice and consent of other gentlemen, boiled that down in that shape to cover the matters expressed in this section, all except with reference to appeals from the courts, which my friend, Mr. Richards, will supply with additional amendment, and copies of this amendment have been in the hands of members of the bar, who are members of the Convention, for a day or more, and I believe it

meets with their approval. If not, we will hear from some of them.

The substitute was adopted.

Mr. RICHARDS. Mr. President, I desire to offer an additional section, to be numbered section 7, as follows:

Upon a change from territorial to state government, the seal in use by the supreme court of the Territory shall pass to and become the seal of the supreme court of the State, until otherwise provided by law; and the several district courts of the State may adopt seals, for their respective courts, till otherwise provided by law.

The section was adopted.

Section 7 was read.

Mr. VAN HORNE. I hereby give notice that I will move a reconsideration of the vote adopting the article entitled schedule.

Section 9 was read.

Mr. RICHARDS. Mr. President, I desire to offer an amendment to this section: Insert after the word "voter" in line 12, the words:

And all persons, who are qualified to vote at elections held under this Constitution after its adoption.

Add at the end of said section, after the word "county," in line 26, the following words:

And provided further, that all votes cast by female voters, for or against this Constitution, shall be deposited in separate boxes and canvassed separately, and so certified by the said commission.

Mr. GOODWIN. Mr. President, I want to give notice that when Mr. Richards finishes his speech, I shall move the previous question.

Mr. RICHARDS. Mr. President, I should not occupy any time in discussing this amendment, or proposed amendment, but for the fact that I regard it as one of very great importance, and one which involves statehood itself, and I desire to present, in the best way that I can in the few minutes that

I have under the rule, the reasons why I do this. If I did not believe that statehood would be imperiled if this amendment were not adopted, I think after the manifestation of the members of the Convention in committee the other day, I should not have presented this amendment. I have not time to discuss the question on its merits, as to the reason why the construction that is placed upon the Enabling Act by the gentleman whose communication I read the other day—I say I have not time to discuss the reasons why that construction is a proper one, but I submit that when it appears to this Convention, when it appears to us as the representatives of the people of this Territory, that there is a serious question in this matter, and that there is danger, it is not only the act of prudence, but it is the act of duty that we should pause and hesitate before we proceed to do something that will incur this risk and this responsibility, and possibly this great disaster, when we can just as well avoid it as not. Now, it is not necessary that I should demonstrate to you that the opinion of Judge Sutherland, of Judge Marshall, of Mr. George Sutherland, and of Mr. Dey, is correct. But when I tell you that these men insist that that is the law, although other men may claim that the construction is different, there is a question raised.

Mr. VARIAN. I want to ask you whether their judgment is made after hearing argument or not?

Mr. RICHARDS. I desire to ask that this shall not be taken from my time. I desire to say what little I may in this time. Now, I say, when it appears there is a serious doubt of this question, and it is admitted by the gentlemen on the other side, every one of them, that no possible injury can result from the method I propose, and when they admit in the same breath that if the construction gentlemen are contending for is correct, that the Constitution will fail and statehood will be

defeated, if you reject this proposition, then I say that there is but one thing for us to do, and that is to take the course in which there is no risk, and in which there is no hazard, and if we fail to do that, gentlemen of the Convention, we take upon ourselves a grave responsibility. We take upon ourselves responsibility of saying to the people of this Territory, "We will run the risk of depriving you of state sovereignty and keeping you in a condition of territorial vassalage." My colleague from Salt Lake (Mr. Goodwin), who says he will move the previous question when I sit down, asked me the other day what Congress intended in relation to this matter. I am authorized to say for Honorable Joseph L. Rawlins, the delegate in Congress, the man who framed this Enabling Act, the man who secured its passage, that it is the right of the women of Utah to vote on this proposition. He concurs with the gentlemen whose opinion you heard the other day in saying that if provision is not made in the Constitution, for their voting, and if they have no opportunity to vote, it will be an illegal submission, and statehood will fail, and what does that mean? Does it mean as my friend from Salt Lake (Mr. Goodwin) said this morning, that it will come back to us to try again? No. It means nothing of the sort. Don't you be beguiled into any such idea. It means if this Constitution fails, because of an illegal election, no other constitution can be had. We cannot assemble here together. We cannot provide for another election. No other election can be had until Congress passes another law. Now, gentlemen, it seems to me that in view of these facts, we ought to pause, and we ought to take the course of prudence, but some of my friends say to me, "Richards, you are unnecessarily exercised. There will be enough male votes cast to save the Constitution. That won't help us any."

Suppose the male vote was to adopt

the Constitution. If the women had a right to vote the President of the United States might say to us, "You should have given them an opportunity to vote, and possibly they would have defeated the Constitution." So that it makes no difference which horn of this dilemma we take; whether we get more male votes for the Constitution than against it, or whether it is vice versa. The whole thing will fail, if this proposition is correct that is made by these gentlemen; so I say there is but one thing for us to do, and that is to take the course that is marked out here, which involves no risk, which simply places these votes in separate boxes, and then if they have the right to vote, well and good, and if not, no harm is done. Now, I would expect this proposition to be made from people who were opposed to statehood, but I take it for granted that every man on the floor of this Convention is acting in good faith, and that every man on this floor desires statehood, and when I take that for granted, I tell you, gentlemen, it is incomprehensible to me how any man can stand up and say that by taking the other course we will incur risk, and yet refuse to adopt this method.

Mr. VARIAN. Mr. President, if the gentleman's premises were true, we would grant his conclusion. The difficulty is, he has confused this proposition. So far as the right to vote upon the adoption of this Constitution is concerned, it cannot depend upon what we put in this Constitution. It will depend upon the act of Congress. Now, to legislate and bring in a new class of voters to vote upon the other proposition for State officers, will involve what? An overturning of the whole electoral system of the Territory. Women are not entitled to register. You have got to recognize your registry law. You cannot, by putting a clause in the Constitution here, bring in and enfranchise a new class of voters, and also by implication, recognize, as it were, the en-

tire system governing the electoral franchise. What is going to be the result? It is in the hands of the Utah Commission. If you put in a declaration that women shall vote for State officers for instance—they are not registered. The Utah Commission and the registrars of election under existing laws would not be permitted to register them, so that to be permitted to vote, without the safeguards and the prudential cautionary measures that envelop and surround the right to vote, or circumscribe, rather, the right to vote, now, would not do at all. There is no necessity for this thing. I understand the gentleman has made a caucus proposition, if I am to judge by the reports in the morning paper, but I submit that is not the fair way to deal with this question, nor is it a fair way to deal with it, and go out and bring in the advice of three, or four gentlemen, however distinguished they may be, certainly occupying no higher position than others in the Territory who have not had the audacity as it were to thrust their advice upon this Convention unasked.

Mr. RICHARDS. Let me ask you, what do you mean by "caucus proposition?"

Mr. VARIAN. I saw in one of the papers that a number of gentlemen of this Convention belonging to a political party, had held a caucus meeting last night and determined upon this question. I state it not from my own knowledge, but it has been given out through the medium of the public press. I do not mean to state anything offensive to my friend or his associates.

Mr. RICHARDS. Is there anything improper in a number of gentlemen meeting together and considering what is for the best good, in their judgment, of the people of this Territory?

Mr. VARIAN. No; I don't make a criticism upon it in that sense. I simply alluded to it. I say that that is hardly the way to deal with it, any more than it is proper to deal with it through the

medium of the advice of three or four gentlemen thrust upon this Convention in the manner that it has been, and possibly with a mental reservation, as all judges have, of reconsidering the matter at some future date, when more light is shed upon it.

Mr. RICHARDS. These gentlemen that you say have thrust their advice upon this Convention without being asked for it—haven't these gentlemen as much interest in the success of this Constitution, as you and I have?

Mr. VARIAN. I do not know.

Mr. RICHARDS. Are they not citizens of this Territory?

Mr. VARIAN. I am not going to be made to criticise these gentlemen unnecessarily. I charge nothing against them. I believe it is—

Mr. RICHARDS. I ask you, in all candor and frankness as a man as well as a lawyer, whether these men that you allude to, as citizens of the Territory of Utah, with the welfare of the State at hand—whether it is an act of impropriety on their part, if they see that we are pursuing a course that they think would imperil statehood, to come here and admonish us?

Mr. VARIAN. I answer that question, it is absolutely a matter of gross impropriety. The proper course to have pursued would have been to go before a committee, who are authorized to sit in judgment upon these questions, and there make their arguments, not to thrust them in this way. I answer the other question, since I am asked, that I believe one of those gentlemen is not now in favor of statehood.

Mr. ELDREDGE. Mr. President, I move the previous question.

The motion was rejected.

Mr. IVINS. Mr. President, were it not for the remark made by the gentleman from Salt Lake who has just spoken (Mr. Varian) that this question which is before the Convention at present has been caucused and decided upon by a certain political party, by which I

apprehend that he refers to the minority upon the floor of this house, I should not have voted against the previous question; but I did feel that it would be improper for me, at least, to allow that to pass without stating my own position upon this question. I want to say that if any caucus has been held, I was not aware of it, and did not participate in it; that I have not committed myself in favor of the motion proposed by the gentleman from Salt Lake and am not now in favor of it. My reasons I wish to state briefly. They are these, gentlemen: In the first place, I understand that under the provisions of the Edmunds-Tucker act, a certain class of male citizens, and all female citizens of this Territory, were disfranchised. Now, the Enabling Act, in section 2, provides a means by which the disability, so far as it applies to a certain class of male citizens in this Territory, may be removed, and the right to vote be granted to them; but I can find nothing in this Enabling Act that leads me to believe that the operation of the Edmunds-Tucker act is not now in full force so far as the women of this Territory are concerned; and I cannot construe these words in the fourth section of this act to mean anything else than that the present legal voters of this Territory, which is the proposed State of Utah, are entitled to vote, and no others.

Now, while it is true that very able gentlemen have expressed their opinion upon this question, and that it is different to my own opinion (and I profess no great legal knowledge), it is also a fact that very eminent legal gentlemen in this city have expressed their opinion upon the lines upon which mine is expressed, and have said to me just as emphatically as it has been said on the other hand, that if they be permitted to vote, it would absolutely be improper and not in accordance with the conditions of this Enabling Act. I do not believe, gentlemen, that it was ever con-

templated. If it had been, a provision would have been made clearly in this Enabling Act by which that condition could have been made; and I submit that if it was the intention of the men who drafted this bill that the women of this Territory, in case they should be enfranchised, or proposed to be enfranchised, by this Constitution, should vote on the Constitution, they made a bungling job of it. It ought to have been made plain. I do not believe it was ever contemplated, or ever intended; and I shall vote against the proposition.

Mr. THORESON. I would like to ask the gentleman if a female could be elected at the first election in this State, for State officers?

Mr. IVINS. No, sir.

Mr. THORESON. Why not?

Mr. IVINS. Because she is not eligible to election until after that Constitution shall be approved, neither to vote nor to hold office; and the very fact that she could not hold office indicates that she could not vote. I do not believe it is good law. The gentleman may be a lawyer, but that hypothesis, upon which this whole question is based, is wrong. I believe it is intended for political purposes; and I want to say to you here, that if I knew that by voting for this proposition it would result in victory for my political party in the next campaign, I would vote against it. [Applause.] I do not want a vote if we cannot get it honestly. I do not want this question to be submitted to the women separately, and after the election is over, to have this whole question dragged into the courts, and have such another scene in the Territory of Utah, as we had through the complications that resulted from the operations of the Utah Commission in the last campaign. I want to avoid that litigation.

Mr. GOODWIN. I would like to ask Mr. Richards a question.

The PRESIDENT. Will you yield to a question?

Mr. RICHARDS. I am not on the floor.

The PRESIDENT. He does not consent to be questioned.

Mr. RICHARDS. No, I do not put it upon that ground. I haven't the floor. If the Judge wants to put me on the stand, I am willing to answer any question I can.

Mr. GOODWIN. The gentleman may take his seat as far as that is concerned. I will get along without asking.

Mr. RICHARDS. The record will show I responded and I was ready to answer.

Mr. GOODWIN. Mr. President, the Enabling Act provides as to the returning of votes. Now, if the Utah Commission certify to the President of the United States that a majority of the votes cast were for the Constitution, who is going behind it? I hate to see a man so badly frightened as my friend from Salt Lake seems to have been, when in fact it was only ghost taps. There is nothing in it.

Mr. HEYBOURNE. Mr. President, I move the previous question.

The motion was rejected.

Mr. VAN HORNE. Mr. President, I want to call attention of the Convention to section 2 of the Enabling Act. (Reads.) The Congress of the United States, sovereign in this case, has determined what the registration shall be, has legislated upon the subject. By the amendment proposed by the gentleman from Salt Lake, we would be saying that the Utah Commission, so far from not being governed entirely by the act itself, and the manner in which the act prescribed that the new registration should be taken, should be governed by the action of this Convention, in providing for a new class of registration, not recognized by the laws of the United States, nor the laws of the Territory of Utah. It does not say anything about the registration of the voters who would be qualified under the laws of the State, as their qualifica-

tion might be determined by the Constitution itself, but it says expressly, under the laws of the United States and of the Territory of Utah. We have no territorial law that would entitle a woman to register for voting at any election. We have no United States law that will authorize a registering officer to receive the name of a woman as an elector of this Territory, and when we err in the line of putting a new construction upon this, and new duties upon the Utah Commission, other than those that are prescribed by the Organic or Enabling Act, for the proposed State of Utah, we lay ourselves open to having the President, in his wisdom, say, the conditions of this Enabling Act have not been complied with, but conditions forced upon the Utah Commission by the Constitutional Convention have taken the place of those, and consequently I can refuse to admit the State of Utah.

Mr. THURMAN. Mr. President, I would not ask to be heard on this question, if it had not been for the very extraordinary speech of the gentleman from Washington County (Mr. Ivins). I admit that he has a higher degree of Spartan integrity, perhaps, than I have. He has a right to take any position that he pleases upon this floor. I accord that to him, and I claim it for myself. But when he goes out of his way to brand his whole party with dishonesty, and charges them with doing something simply for political effect, in order to evoke applause from his opponents, then, Mr. President, I feel like arising to my feet and resenting it. It was a remarkable statement: "I, the delegate from Washington (laughter), I! Ivins! I believe that the party to which I belong are playing a game. There is nothing patriotic in all they are doing here. It is a trick. It is a scheme, and I am agin it." Now, gentlemen, I am surprised that my friend should want to parade his virtue, and charge every democrat on this floor

who may disagree with him, practically with being dishonorable in this movement; and I say that when a man charges that I do anything on a serious matter like this, in framing the Constitution merely for political effect, I say it is charging me with dishonor, and I resent it. And the fact that it comes from a gentleman in high standing, a man whose character is unimpeached and unimpeachable, makes the accusation all the more serious, and I arise, if for no other purpose, to resent the insinuation, and ask him when, by what means, and how, he entered into the consciences of all his political friends here, and found out just what their beliefs and their intentions were? No secret has ever been kept from him, and as far as I am concerned in my action on this matter, I have no secrets, gentlemen, even from you. Why, talk about caucuses! I may say that you caucussed on this floor this morning, quietly, getting ready with your "previous question" to shut off debate, and to throttle men who are here standing up for what they believe to be right— notwithstanding the gentleman from Washington says it was for political effect. There has been too much of that kind of talk upon this floor, about things being for political effect. It came up on this very question of woman suffrage in the beginning. Gentlemen of the majority, man after man, arose and practically admitted that what he had done at Provo was for political effect; and now the gentleman from Washington, following in that line, threshing that same old straw, comes and charges his colleagues on this floor with doing something simply for political effect.

Mr. ROBERTS. Mr. President, on the proposed amendment, now offered by the gentleman from Salt Lake, I stand just where I stood in the committee of the whole, and if there is any danger to the Constitution itself, arising out of this proposition, I am as

firmly convinced now as I was then that it lies in the direction of undertaking to allow unenfranchised people to vote upon its adoption, and not from confining the vote upon the Constitution to the legal voters of the Territory of Utah.

Mr. RICHARDS. Would you kindly point out what danger could possibly arise from permitting the women to vote in separate boxes?

Mr. ROBERTS. Mr. President, the very proposition to keep the vote of men and women apart on this subject in my mind exhibits the fear the gentlemen have of the illegality of causing them to vote upon the proposition direct. It convinces me that they must, themselves, be full of fear that to permit them to vote on the proposition involves a doubt as to the legality of that proceeding. Had my friends insisted upon putting this directly into the Constitution itself, without any such back-gate escapement as that separate voting proposition, I might possibly have been led to believe fully and altogether in their theory, but I cannot have any confidence in the proposition, when I see such a provision for retreat made in it, and I am firmly convinced that if there is any danger in this thing, it will come from that very thing.

Mr. RICHARDS. Well, but wherein is the danger? You spoke without answering my question?

Mr. CHIDESTER. Mr. President and gentlemen of the Convention, inasmuch as I expect to vote against this, I do not wish to make any explanation when I do so, and I want to say just a word or two. I notice that Wyoming, placed in a similar attitude to that in which we are placed, the ladies did not vote for the Constitution there, and it did not seem to endanger the Constitution.

Mr. RICHARDS. Was Wyoming admitted under an Enabling Act?

Mr. CHIDESTER. No; I think not.

Mr. RICHARDS. That is the reason why.

Mr. SQUIRES. The women were legal voters there.

Mr. CHIDESTER. The women, however, had been voting in that territory, if I understand it aright, for a number of years, and they have not been here for a number of years. I think that would make some difference. Now, while I would very much like to see them vote for State officers, and for the Constitution, I would not like at this time to take any step that would be detrimental to us, or could be construed so, and I have met a number of the leading ladies of this Territory, and shortly after this proposition was mentioned here the other day, they signified to me that they did not wish that matter dwelt upon any longer, that they were perfectly satisfied with it as it stands to-day, and they did not wish to vote for the adoption of the Constitution, nor for State officers, at this election; they would be perfectly satisfied if they had the right to vote after the Constitution was adopted. For that reason I feel at perfect liberty now to say that we have gone far enough, and to vote against the amendment offered.

Mr. WHITNEY. Mr. President, I thought I saw very clearly on yesterday my duty in relation to this matter, and I will admit frankly that my views were similar to those of my friend from Davis County. I thought I saw clearly that the women ought not to be permitted to vote until the adoption of the Constitution, but I am not lawyer enough, and I have not the temerity to place my feeble judgment against those of such men as Judge Sutherland, Judge Henderson, the Honorable Joseph L. Rawlins; and I am willing to defer to their judgment, especially since it involves no risk whatever. My colleague from Salt Lake asked the gentleman from Davis County what possible danger there was in the women voting

separately upon this proposition, and in keeping the vote separate. The answer was that the fact that the vote was to be kept separate implied a fear on the part of those who supported this proposition, of the legality of the proceedings. I wish to say candidly that I admit there is a fear in my heart, but the fear is this, that the preventing of the women from voting is the danger. I fear the illegality of that proposition, and as I say, I am willing to defer to these gentlemen who are wiser than I in the law, and since this matter involves no risk whatever, and in the opinion of these gentlemen who are wiser than I there is a risk on the other side, I am willing to take what I conceive to be the safe course and save this point, and I therefore, shall vote for the proposition of Mr. Richards.

Mr. HILL. Mr. President, in reply to what my friend, Mr. Thurman, has just advocated on the floor of this Convention, I wish to call his mind to the statement which he made when this proposition was being discussed in reference to female suffrage. I stated that the republican party at their convention in Provo, in section 18. stated that they favored the granting of equal suffrage to women. Mr. Thurman, in reply to that proposition—I wish to quote him correctly; I made a notation of his statement at the time, which I have in my hand. It was thought by his party that they would go one better than the republican party had stated. He, individually, upon my solicitation, handed me the article which he had drawn to be adopted in the platform of the democratic party, which I hold in my hand.

"The democrats of Utah"—I guess I will have to ask him to read it.

Mr. THURMAN. I can repeat it for you.

Mr. HILL. It does not make any difference; this is in his handwriting, but in connection therewith I wish to say that I have not, as a member, occupied much of the time, but it is to me very

inconsistent at this period of our Convention for him to take his present position, in reference to the party on the other side. My position has always been conservative. It is conservative to-day, and these aspirations that are being cast from one side of this house to the other I think are irrelevant to the question before the Convention.

Mr. EVANS (Weber). Mr. President, I want to call attention to a principle or two in this matter that we are now discussing; the right of women to vote for the rejection or adoption of the Constitution, I believe depends upon the Enabling Act itself, and its construction. In conventions where there was no restriction in the Enabling Act, by legislative enactment, it has been held, as Mr. Jameson states in his work on constitutional conventions, where he is discussing the question as to the right of a convention to disfranchise a class of people. He discusses it at some length and concludes as follows:

The conclusion at which I arrive, then, is that a convention may, by constitutional provision, affect the disfranchisement of existing electors. Of course, with the question of policy of so doing, in any case, I do not concern myself.

Now, if the Convention can disfranchise a class of existing voters, I can see no reason why they could not enfranchise them, unless there was an express restriction, in the paramount authority, but the exact question is discussed by Jameson in his work, to which I have referred. Speaking of the question as to who may vote for the adoption of the Constitution, he gives a number of cases and uses this language:

Of these, the highest proportion were cases in which submission was made to the electors, plus certain designated classes of persons, previously not entitled to vote at such elections, and the residue of cases in which submission was made to the electors, minus certain classes of persons thus entitled, according to exist-

ing laws. To these should be added two cases in which submissions of constitutions were made to an electorate, both increased and diminished, as compared with that qualified by the existing constitution. Thus the Tennessee convention of 1834, in submitting the constitution of that year, restricted the suffrage given by the convention of 1796, by inserting the word "white," and enlarged it by no longer requiring a freehold as a qualification for an elector, as did the convention of 1796. The Arkansas convention of 1868, on the other hand, in submitting its constitution, enlarged the previous suffrage by striking out the word "white," and restricted it by disfranchising persons who were electors according to existing laws, for offenses connected with the war of the rebellion. In a few cases the conventions, by schedules or ordinances, required submission to be made to the electors qualified to vote according to both the existing and the amended constitution. In most of these cases, the effect was on the whole, doubtless, to increase the existing electorate.

Mr. BUTTON. Mr. President, I move the previous question.

Mr. HAMMOND. That is just the way we have been doing all the time.

Mr. NEBEKER. Let San Juan proceed.

The PRESIDENT. San Juan may proceed if there is no objection.

Mr. HAMMOND. I have had my old democratic gun loaded to the muzzle three or four times, and some jake or other will jump up and spring the previous question. Now, on this matter, I am not acquainted with Judge Sutherland nor Judge Henderson. I have heard of those gentlemen and read of them. Now, I am not acquainted with our honorable delegate as a lawyer. I don't know anything about him, and when we San Juan laymen get into a snarl like this and have to depend upon lawyers, I will tell you where I stand. I know Dave Evans, and if he don't know more than all these republicans, then I will sit down. [Applause and laughter.]

The roll being called on the adoption of the amendment offered by Mr. Richards, the result was as follows:

AYES—34.

Anderson	Lemmon
Boyer	Lowe, Wm.
Call	Low, Cache
Corfman	Maloney
Creer	Maughan
Cunningham	Murdock, Wasatch
Engberg	Nebeker
Evans, Weber	Partridge
Evans, Utah	Preston
Francis	Raleigh
Hammond	Richards
Hart	Robertson
Halliday	Thoreson
Howard	Thorne
Hughes	Thurman
Johnson	Warrum
Kimball, Salt Lake	Whitney.

NOES—53.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Brandley	Lowe, Peter
Button	Lund
Cannon	Mackintosh
Chidester	McFarland
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Driver	Page
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Roberts
Farr	Robinson, Kane
Gibbs	Ryan
Goodwin	Sharp
Green	Shurtliff
Heybourne	Squires
Hill	Stover
Hyde	Strevell
Ivins	Thompson
James	Van Horne
Jolley	Varian
Kiesel	Wells
Kearns	Williams.
Lambert	

ABSENT—17.

Adams	Miller
Barnes	Peters

Buys	Ricks
Cushing	Robison, Wayne
Haynes	Snow
Keith	Spencer
Kimball, Weber	Symons
Lewis	Thatcher.
Maeser	

PAIRED—2.

Kerr Pierce.

Mr. KERR. Mr. Pierce and I are paired on the question. I would vote aye and he would vote no.

The PRESIDENT. The amendment is lost, gentlemen.

Mr. THURMAN. Mr. President, I move that we strike out all of section 9, down to and including the fourteenth line, except the last word "the." The rest of the section to stand as a part of what I offer, and insert in place of that struck out the following:

The election for the adoption or rejection of this Constitution and for State officers herein provided for shall be held and conducted according to the laws of the Territory and the provisions of the Enabling Act, at which election the qualified voters of the proposed State shall vote directly for or against the proposed Constitution and candidates for State officers. The votes cast at said election shall be canvassed and returns made in the same manner as was the election for delegates to this Convention.

Mr. SQUIRES. Will Mr. Thurman allow me a suggestion? An amendment, which we have already adopted for the first part of this section, provides the time when this election shall be held. Did you want to cut that out? It is to be held on the Tuesday after the first Monday in November, in the year 1895.

Mr. THURMAN. I want to include that, of course. I accept that as a part of the substitute that I propose. Now, I only desire to say a few words on that, just merely to call attention to my object in offering this. I have no speech to make, but I have in this language endeavored to strike a ground which those who are opposed to the women voting, and think it dangerous,

ought to compromise on. It follows the exact language of the Enabling Act. It says that at this election the qualified voters of the proposed State shall vote for or against the Constitution, without this Convention undertaking to determine who are the qualified voters of the proposed State.

Mr. CANNON. I desire to ask Mr. Thurman whether the effect of the motion would not be to carry into the courts the contest which we have had here this afternoon?

Mr. THURMAN. Yes; and won't the effect of what you have just done be that very same thing?

Mr. CANNON. I think not.

Mr. THURMAN. I can answer it for you, that it most unquestionably will. About the first thing that will be done, will be to try to determine this matter before the election comes off.

Mr. CANNON. Then, I arise to a point of order. My point of order is that the gentleman is seeking by this motion to introduce again that which the Convention has just decided shall not be introduced. It is in a different form, but it is the same thing under another head.

The point of order was overruled.

Mr. THURMAN. I wish to say now, Mr. President, that in the Enabling Act, section 4 reads that in case a Constitution and State government shall be formed in compliance with the provisions of this act, etc. My amendment contains the language in the Enabling Act. If as a matter of law women have no right to vote, then they are not qualified voters of the proposed State. If they did have a right to vote, then they are qualified voters of the proposed State. I think the amendment ought to be adopted.

Mr. EVANS (Weber). Mr. President, it seems to me that this proposition offered by Mr. Thurman is a very fair one. We are so tenacious about following the Enabling Act, why not follow the exact language in this section?

I am in favor of it, and I think it ought to be adopted. It certainly cannot do anybody any harm. It will be doing that which we ought to do. If there is a serious doubt upon this question, let it be determined in the proper tribunal.

Mr. SQUIRES. Mr. President, I think we have had this question discussed long enough. I move the previous question.

The motion was agreed to.

The roll being called on the adoption of the amendment offered by Mr. Thurman, the result was as follows:

AYES—36.

Anderson	Lemmon
Boyer	Lowe, Wm.
Call	Low, Cache
Chidester	Maloney
Corfman	Maughan
Creer	Murdock, Wasatch
Cunningham	Nebeker
Engberg	Partridge
Evans, Weber	Preston
Evans, Utah	Raleigh
Francis	Richards
Hammond	Robertson
Hart	Snow
Howard	Thoreson
Hughes	Thorne
Johnson	Thurman
Kerr	Warrum
Kimball, Salt Lake	Whitney.

NOES—48.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lowe, Peter
Cannon	Lund
Christianson	McFarland
Clark	Morris
Coray	Moritz
Crane	Murdock, Beaver
Driver	Murdock, Summit
Eichnor	Page
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Farr	Roberts
Gibbs	Robison, Kane
Goodwin	Ryan
Green	Sharp

Heybourne	Shurtliff
Hill	Squires
Hyde	Stover
Ivins	Strevell
James	Thompson
Kiesel	Van Horne
Kearns	Varian
Lambert	Wells.

ABSENT—22.

Adams	Maeser
Barnes	Mackintosh
Brandley	Miller
Buy	Peters
Cushing	Pierce
Haynes	Ricks
Halliday	Robison, Wayne
Jolley	Spencer
Keith	Symons
Kimball, Weber	Thatcher
Lewis	Williams.

Mr. EVANS (Weber). Mr. President, I have an amendment that I desire to offer to that section, as follows:

Strike out all after the word "Constitution," in line 13, in section, and all of line 14 to and including the word "for," and insert in lieu thereof the following:

And all voters qualified under this Constitution, both male and female, are entitled to vote at the first election for State officers and for members of the Legislature; provided that the vote of each sex shall be taken in separate boxes.

Mr. VARIAN. Mr. President, I would make the point of order that that matter has been determined by the vote preceding the last vote. It was included in Mr. Thurman's motion substantially.

Mr. EVANS (Weber). Those two propositions that were made related to the right of women to vote for the Constitution. This is now simply leaving out the voting for the Constitution.

Mr. RICHARDS. If the gentleman will permit me, I will suggest it did not include this, for the reason that in my amendment there was no provision for the vote for State officers to be taken in separate boxes.

Mr. CANNON. Mr. President, I raise

the point of order that this proposition should have come at that time in the form of an amendment. If the gentleman did not wish to carry out the entire proposition proposed by Mr. Richards, he should have proposed an amendment, and after that is disposed of he could not bring it in in this form.

Mr. EVANS (Weber). Mr. President, it would not be germane to the other, because it would not harmonize at all, the other amendments were so different from this. The other two amendments related to the right of women to vote at the election for the ratification or rejection of the Constitution, but in different forms. Now, I propose an amendment that will authorize women to vote for State officers only, and put the vote in separate boxes.

Mr. GOODWIN. Boys twenty years old now, who will be 21 on the first of January—does it include those?

Mr. EVANS (Weber). It includes those who are qualified under the Constitution.

The point of order was sustained.

Mr. EVANS (Weber). Mr. President, I appeal from the decision of the chair on this question. I do not care anything about this amendment that I offer, so far as any virtue that is in it is concerned, because I do not expect that it will be adopted by the Convention, but I want to remind you, gentlemen, of the course of procedure which we have had since the beginning of this Convention. We have always been entitled to offer amendments, and to have them entertained for the purpose of expressing a view which has not been passed upon before. The only thing that is in these other two amendments offered by Mr. Richards and Mr. Thurman, relates to the right of women to vote for the adoption of the Constitution and for State officers. They were competent in the Richards amendment, and in the Richards amendment, it further provided that the votes for the adoption of the Constitution should be

in separate boxes. Mr. Thurman's amendment simply followed the Enabling Act for the purpose of permitting the courts to determine who were qualified voters. Now, I simply propose an amendment here that women may vote for State officers alone, that is all. I admit that that is a question, of course, which the Convention may deal with. They can either adopt it or not, but that has nothing to do with this point of order.

Mr. HART. Mr. President, as I understand it, the only ground upon which this could be ruled out of order would be that it is in substance the same as Mr. Richards's amendment. Now, I understand there is a great difference. There is an additional element included in this amendment, and that is that votes for State officers shall be kept separate as well as votes on the ratification and adoption of the Constitution. Now, it will be an impossibility, from the form of these two amendments, for Mr. Evans or Weber to amend Mr. Richards's motion. There is a difference in form. There is no rule anyway requiring him at that time to propose a different proposition, unless he wished to. We have had a right to vote on Mr. Richards's amendment, now we have a right to vote on this.

Mr. CANNON. I would like to ask Mr. Hart a question. Is it not the original proposition—two ideas conveyed, first, vote for the adoption of the Constitution, and second, vote for State officers?

Mr. HART. I understood it was simply upon the one proposition for the ratification of the Constitution.

Mr. VARIAN. Mr. President, Mr. Richards's motion included an addition in line 12, after the word voter, "and all persons who are qualified to vote at elections held under this Constitution after its adoption," should have the right to vote, and an addition at the end of the section, "and provided fur-

ther, that all votes cast by female voters for or against this Constitution, shall be deposited in separate boxes and canvassed separately and certified." Mr. Evans's motion provides that all voters qualified under this Constitution, both male and female, are entitled to vote at the first election for State officers and members of the Legislature, etc. I submit, that it is the same proposition in different form, and that by simply changing the verbiage, or selecting a different place in the section, will not accomplish the purpose of keeping us here to vote it down time after time. It seems to me the chair ought to be sustained.

Mr. EVANS (Weber). The Richards proposition includes the right to vote for the Constitution and also for State officers, doesn't it?

Mr. VARIAN. Yes, sir.

Mr. EVANS (Weber). Some members may be opposed to their right to vote for State officers, but in favor of their voting for the Constitution. Now, I have singled that out so that we may have a vote on that proposition. He has a double proposition, and I have a single one.

Mr. VARIAN. I think that Mr. Richards's amendment included Mr. Evans's proposition. We certainly understood it that way, and we voted twice with some difference in the verbiage upon one or the other of these propositions, once on both of them put together, and on Mr. Thurman's we have voted practically on the same line. It provides that qualified voters of the proposed State should vote directly for or against the proposed Constitution and candidates for State officers.

Mr. RICHARDS. Mr. President, I insist that this is entirely a separate and distinct proposition. My amendment was that the women should be permitted to vote for the Constitution and for State officers. As was stated by the delegate from Weber, they were both combined, and so far as the Con-

stitution was concerned, it was provided that the vote should be taken separate. This is a separate proposition, for the reason that it brings the question squarely before the Convention alone upon the right of the women to vote for State officers, and for the further reason that it provides for putting the votes in separate boxes for State officers, and my amendment did not provide for that. It is a separate and distinct proposition.

Mr. ROBERTS. I would ask these gentlemen who are contending for another vote upon this proposition, if there was anything in the course of the discussion that would lead them to conclude that this Convention would vote for this single proposition when unconnected with the proposition to vote for or against the Constitution?

Mr. RICHARDS. Will the gentleman permit me to answer the question he asks?

Mr. ROBERTS. I did not direct it to you.

Mr. RICHARDS. You referred to the gentleman who stated these things.

Mr. ROBERTS. Excuse me. I referred to all of them. I directed my question, not to Mr. Richards at all, and therefore I cannot conceive that I am treating him with discourtesy in not allowing the interruption; but sir, on the other hand, when this question of allowing the women to vote for the officers in the new State government separately was proposed to the committee of the whole, it was voted down, and I contend, sir, that there is no reason that these gentlemen can put forth—that there is anything in the disposition of this Convention to change their vote on this proposition, when it was coupled with the proposition that women should vote for or against the Constitution.

Mr. HART. I would like to ask the gentleman what that has to do with the point of order.

Mr. ROBERTS. In answering that,

I would say, sir, that it helps us in the interpretation of this proposition that is now before the house. The idea is that this Convention has never expressed itself upon this proposition singly and alone, and I refer to the action of the committee of the whole, by which the sense of this Convention may be known or may be properly judged.

Mr. HART. Would the gentleman contend that a motion is out of order unless the mover of it contemplated receiving a majority of the Convention?

Mr. ROBERTS. Mr. President, I hold that the motion is out of order, for the reason that we have decided this question when it was associated with another question, and there was nothing in the discussion to indicate that gentlemen would vote for it, if separate from the other proposition with which it was connected.

Mr. SQUIRES. And no motion made to separate them.

Mr. ROBERTS. And no motion or amendment made to separate them.

Mr. THURMAN. Mr. President, I desire to answer my friend from Davis County. He asks these gentlemen who are contending for this, if there was anything that had occurred to lead us to believe that there would be any difference in the vote. I say yes. I say there are republicans on this floor who have stated time and time again that they were willing to allow women to vote for State officers, but not for the Constitution.

Mr. RALEIGH. Mr. President, I have voted for Mr. Thurman's amendment and I have not voted for women to vote for State officers. I am certain of that.

The roll being called on the appeal from the the decision of the chair, the result was as follows:

AYES—43.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lowe, Peter

Cannon	Lund
Chidester	McFarland
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Roberts
Emery	Robinson, Kane
Farr	Ryan
Gibbs	Shurtliff
Goodwin	Squires
Green	Stover
Heybourne	Thompson
Hill	Van Horne
Hyde	Varian
Kearns	Wells.
Lambert	

NOES—38.

Anderson	Lowe, Wm.
Boyer	Low, Cache
Call	Maloney
Corfman	Maughan
Creer	Murdock, Wasatch
Cunningham	Nebeker
Engberg	Page
Evans, Weber	Preston
Evans, Utah	Raleigh
Francis	Richards
Hammond	Robertson
Hart	Robison, Wayne
Howard	Sharp
Hughes	Snow
Ivins	Thoreson
Johnson	Thorne
Kerr	Thurman
Kimball, Salt Lake	Warrum
Lemmon	Whitney.

ABSENT—25.

Adams	Maeser
Barnes	Mackintosh
Brandley	Miller
Buys	Partridge
Cushing	Peters
Haynes	Pierce
Halliday	Ricks
James	Spencer
Jolley	Strevell
Kiesel	Symons

Keith Thatcher
Kimball, Weber Williams.
Lewis

The chair, was sustained.

Mr. IVINS. Mr. President, I want to say by way of explanation, that while I am opposed to the motion made by the gentleman, I am also opposed to the ruling of the chair, and therefore, I shall vote not to sustain the chair.

Mr. STOVER. Mr. President, I move we now adjourn.

The motion was rejected.

Mr. RICHARDS. Mr. President, I desire to offer an amendment to section 9, and before I present my amendment I desire to say to the gentlemen on both sides of the house, for their relief, that there is no reference whatever to woman's suffrage in the amendment that I propose. I regard this as a very important amendment. In the committee of the whole, on the motion of my colleague from Salt Lake, Judge Goodwin, the words "and are qualified voters" were inserted after the word election, in line 12. That was a mistake. Those words ought not to be there. The Enabling Act provides for the qualifications of certain persons who shall vote on this Constitution, provided that all male citizens of the United States over the age of 21 years, who have resided in this Territory for one year next prior to to such election—that is the exact language of the Enabling Act, and the words, "and are qualified voters," were inserted after, and I move to strike those words out. The purpose of the Enabling Act undoubtedly was, and I think no gentleman on this floor will dispute it, to permit men over twenty-one years of age, who had resided in the Territory one year prior to their election, to vote, who were not qualified to vote under the laws of the Territory—who were ineligible, and were not legal voters except for this act. Now, if we retain these words, "and are legal voters," it simply means that those men to whom the right to vote is

guaranteed by this provision, cannot vote, and those words ought to be stricken out.

Mr. CANNON. Would not the same result that you desire follow by adding "and the qualified voters under the provisions of the Enabling Act?"

Mr. RICHARDS. No, sir; the words ought not to be there at all, because the committee have undertaken here to prescribe the exact qualification provided in the Enabling Act. Section 1 provides who may vote, and section 4 guarantees to these people the right to vote. We have been contending that it also guaranteed to other people, in section 4, the right to vote, but certainly no one will deny that it guarantees in in the latter part of section 2 the right of these people to vote. I suppose this insertion was made by inadvertence. At any rate it would, if allowed to remain here, exclude this class of people from voting, who are guaranteed that right under the Enabling Act.

Mr. CANNON. There is another class, though, on another election here mentioned; that is, in addition to voting for or against the adoption of the Constitution, you also vote for the State officers herein provided for, but at the present time, the officers would not be elected by that class of voters.

Mr. RICHARDS. I understand that the gentlemen are contending that only voters qualified under the Enabling Act can vote.

Mr. GOODWIN. Mr. President, I had no thought in making that motion, but to make it conform to another section in this Constitution. The parties referred to by Mr. Richards, as I understood and always contended, were made qualified voters by the amnesty of President Harrison, and later of President Cleveland. My thought was that men who were convicted of such crimes as robbery, homicide, etc., who are scattered through this Territory, and persons also who would be voters if they were registered; I think that without

that, any other man that is not registered at all, can go to the polls on election day and claim the right to vote.

The amendment was agreed to.

Mr. VAN HORNE. Mr. President, I move we adjourn.

The motion was rejected.

Section 10 was read.

Mr. ROBERTS. Mr. President, my recollection is that in the article on public lands providing for three land commissioners to locate lands, it was stricken out. If my recollection is correct on that, then, "three land commissioners," in this section should be stricken out. My recollection is that the section on public lands was so amended. I make the motion, therefore, that those words be stricken out.

Mr. CREER. Mr. President, I hope that that motion will not prevail. I think it should not prevail. There is nothing in that that will conflict at all with the Enabling Act, as I understand it. Furthermore, it leaves it for the election of these officers by the people, which is a very important matter, as I believe. If this were stricken out, it may be then the Legislature should perhaps appoint some other State officers. Now, I think there is nothing at all in the way here, why we should not elect these as State officers. I do not believe it was the intent at all, in striking out this section, that this should also be stricken out.

Mr. CANNON. Would it not be a strange condition of affairs to have three men elected, when there are no duties assigned to them?

Mr. CREER. The Legislature can prescribe their duty.

Mr. CANNON. The Legislature may see fit to trust it to a dozen men, or half a dozen men, or any number.

Mr. CREER. That is very true, and that is the reason why I say the Constitution should fix it now. I think it is proper they should be State officers.

Mr. ROBERTS. Mr. President, I remember that these words of section

10, "three land commissioners," were inserted here, because, in the committee of the whole, in the article on public lands, we had provided for those land commissioners, but in the Convention that section in the article on public lands, that required the appointment of three land commissioners, was stricken out, and that being the case, the Constitution does not provide for these officers anywhere; and since these officers were provided for in consequence of the section that at that time was a part of the article on public lands, since that has gone, it seems to me but reasonable that the words here also should go.

Mr. CREER. I think, if my memory serves me right that, the section that was stricken out went to prescribing duties of these commissioners, but this simply elects them.

Mr. MALONEY. Mr. President, I trust this will not be stricken out. The Legislature can prescribe for their duties. If we are to have these commissioners let us have them elected by the people.

Mr. THURMAN. Mr. President, I think it ought to be struck out. This is a schedule. We have no right to put any officer in here, unless he is created in some other part of the Constitution. Have we got it anywhere else?

Mr. ELDREDGE. No, sir.

Mr. VARIAN. Strike him out.

The motion to strike out was agreed to.

Sections 11, 12, and 13 were read.

Mr. RICHARDS. Mr. President, I move the word "term" be made "terms," in section 13.

The amendment was agreed to.

Section 14 was read.

The PRESIDENT. The roll will be called on the adoption of the article.

Mr. EVANS (Weber). Mr. President, the article is now open for remarks, and I simply take this opportunity of saying that as far as the remarks of Mr.

Varian, which related to me, as being a very inferior lawyer and pettifogger and all that, I do not care to resent it especially, except that I will say this, that I believe the amendment which he offered to the section, and which was adopted, ought not to have gone into the schedule. I think if anything upon that subject was put into the Constitution at all, it should have been in the ordinance, and I oppose it seriously upon that ground, and I do not think I shifted around from one position to another. I probably merit all the strictures which he placed upon me. That is a matter which I will leave this Convention to determine. I will say, however, that I believe his work in amending that section is a piece of the worst blacksmith work that I ever saw in a constitution.

The roll being called on the adoption of the article, the result was as follows:

AYES—60.

Allen	Larsen, C. P.
Anderson	Lemmon
Bowdle	Lowe, Wm.
Button	Lowe, Peter
Call	Lund
Cannon	Maughan
Chidester	Morris
Christiansen	Murdock, Beaver
Clark	Murdock, Wasatch
Coray	Murdock, Summit
Crane	Page
Cunningham	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Roberts
Eldredge	Robertson
Emery	Robinson, Kane
Engberg	Robison, Wayne
Farr	Ryan
Gibbs	Sharp
Goodwin	Shurtliff
Green	Snow
Hammond	Spencer
Hill	Squires
Hughes	Stover
Ivins	Thompson
Johnson	Thorne
Kearns	Thurman

Kerr
Lambert
Larsen, L.

Varian
Wells
Whitney.

NOES—18.

Boyer	Low, Cache
Corfman	Maloney
Creer	McFarland
Evans, Weber	Partridge
Francis	Preston
Hart	Raleigh
Heybourne	Richards
Howard	Thoreson
Kimball, Salt Lake	Warrum.

ABSENT—28.

Adams	Lewis
Barnes	Maeser
Brandley	Mackintosh
Buys	Miller
Cushing	Moritz
Evans, Utah	Nebeker
Haynes	Peters
Halliday	Pierce
Hyde	Ricks
James	Strevell
Jolley	Symons
Kiesel	Thatcher
Keith	Van Horne
Kimball, Weber	Williams.

During the calling of the roll the following statements were made.

Mr. ANDERSON. I vote aye for the article, but I wish to be recorded as being opposed to section 2, where we are trying to get special legislation in regard to polygamy.

Mr. HAMMOND. I am not altogether satisfied with my vote on the Varian amendment, but I did it merely as an expedient, that is, a republican expedient, and I wanted to help them out as best I could, and so I voted aye. I am ashamed of it. As a democrat I had no business to do it. I will let it go aye.

The PRESIDENT. You will please record that the gentleman is ashamed of himself.

Mr. RICHARDS. I vote aye, with an interrogation mark. I desire to change my vote.

Mr. EVANS (Weber). If the article will carry without my vote, I would like to vote no, but I do not want it to fail.

The PRESIDENT. I cannot say.

Mr. EVANS (Weber). Well, I will vote no and see whether I can change my vote afterward.

Mr. SQUIRES. You cannot change it after the result is announced.

Mr. CREER. Change my vote to no. I vote no.

Mr. PARTRIDGE. I voted aye, and I am willing to vote aye, if Mr. Thurman's amendment had carried, but under the circumstances I believe I will change my vote to no.

Mr. CREER. That is the way I felt.

The PRESIDENT. The article has been adopted, and under the rules goes to the committee on compilation and arrangement.

The committee on engrossment and enrollment presented the following communication:

MR. PRESIDENT:

Your committee on engrossment and enrollment finding nothing in the rules prescribing the number of copies of the Constitution to be prepared for the signature of the delegates, respectfully ask instructions as follows:

(1.) How many copies of the Constitution shall be prepared for signature of delegates?

(2.) Shall all of said copies be written, pen and ink copies, or may any of them be in typewriting?

Mr. RICHARDS. Mr. President, I move that that communication be referred to the committee on rules.

Mr. VARIAN. Permit me to suggest to make it a select committee?

Mr. RICHARDS. No; this is a rule.

The motion was agreed to.

The Convention then, at 6 o'clock p. m., adjourned.

SIXTIETH DAY.

THURSDAY, May, 2 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Journal of fifty-ninth day's session was read and approved.

The Convention then resolved itself into the committee of the whole and resumed the consideration of the article entitled miscellaneous, Mr. Eichnor in the chair.

Mr. ROBERTS. Mr. Chairman, I observe that the chairman of the committee reporting this article is not present and for the information of the committee, I wish to state the circumstances under which this report has been made. There were, I think, a number of suggestions in regard to an article for the Constitution on the subject of exemptions. The committee, in consequence of having so much other matter before it, had but little opportunity to go into this matter in detail for themselves and make any personal detailed examination of the subject, but one of the files that was referred to this committee contained this article that is now reported to the committee of the whole. It is an article drafted by Judge Cooley and is taken bodily from the Michigan constitution, and the committee on schedule and miscellaneous were of the opinion that it is a subject that ought to be considered and disposed of by the Convention, and they, therefore, in consequence of the great reputation of Mr. Cooley as a constitutional lawyer, concluded the best thing they could do would be not to attempt any improvement on his production, but to report that as a working basis for the committee. The position, therefore, of your committee on schedule and amendments is this, that while they have reported this article to you, they are not standing in the position of recommending or urging its passage at all, but have merely reported it here for the action of the committee or of the Convention.

Section 1 was read.

Mr. ALLEN. Mr. Chairman, it appears to me that this ought to be left

to the Legislature. Therefore, I move to strike out section 1.

Mr. MALONEY. Mr. Chairman, I am not a member of this committee, but I sincerely trust that motion will not carry. The article as reported is copied literally from the constitution of Michigan, and I am informed by Judge Miner, who is a distinguished jurist in this Territory and a native of Michigan, or a resident of that state that Judge Cooley drew it. It has worked most admirably in Michigan, and they would not part with it under any circumstances. This question was discussed before the people in our county. The people up there demand something of this character. I sincerely trust it will pass. If the question comes down to this, whether the money power should be protected or the widows and children, I think this Convention will take care of the little children and keep this provision in the Constitution.

Mr. KEARNS. Mr. Chairman, I hope that this motion will not prevail as to this section, nor any other section in this article. I trust it is the will of this committee to give that much protection to the little homes, and to the orphans and widows of Utah. Capital will take care of itself. This does not apply to any mortgage legally drawn. If those debts should be contracted by a husband that is called away, and left his children without any protection, or a man without the consent of his wife, to take the little from them—this is the only thing that we have left in the Constitution to protect them. They say it is legislative matter. That may be very true. I maintain that it is good constitutional matter, and matter that will be to our honor long after we have gone to the grave. So I trust, gentlemen of this committee, that there is not one section of this article that will get a jar at your hands.

Mr. BOWDLE. Mr. Chairman, it may be true that it does partake a little of legislative matter, but if we

have never done any legislating in the Constitution, I would be in favor now of entering upon that new field. If the assertion of gentlemen on this floor be correct, we have played a little at that heretofore, and some way it has turned out that whenever there was anything that seemed to look out for the interests of those that we ought to look out for particularly, we hear the cry that it is legislation. In nineteen constitutions of the United States (the names of the states I have before me, but I will not read them), there are provisions protecting the homestead, and the people entitled thereto. California, in its late constitution, made a declaration that the legislature should pass laws protecting the homestead exemptions, and those states that have been lately admitted to the Union—Wyoming, Washington, South Dakota, and Montana—all have provisions of some kind on the question of the exemption of homesteads. Now, the only thing, in my opinion, is whether this article is the one that we want or not. I am fully of the opinion that we ought to say something on the subject in this Constitution. This article I have looked over very carefully. It is clear, explicit, and simple. I do not see how we could get the substance very much shorter than we have it in this article. Now, if you commence to strike out, I apprehend that the whole article will go. That is our disposition when we once start that business. We do not stop short. So that I want to defend the first section of this article, not for what it contains so much as what is in the subsequent sections. It is the policy of this government, in every state in the Union, to protect people named in this article, in the possession of something to keep them from want, and I oppose the striking out of this first section. I think that it is just exactly what we want on that subject.

Mr. ANDERSON. Mr. Chairman, I hope we will not strike this section out.

It is a provision tending to protect the poor and weak—those who need protection. The money lender and the rich man take care of themselves. If a section of this kind or an article of this kind is in the Constitution, they will be more careful. I think an article of this kind should be in the Constitution, and, therefore, I shall vote against the striking out.

Mr. HART. Mr. Chairman, the present law of the Territory is that the debtor is entitled to an exemption of property, at least equal to this. I am in favor of retaining the first section. It will prevent the Legislature, in case there shall be any disposition, which I do not fear, from reducing the exemption of personal property. I am in favor of retaining the first section, although I am opposed to the second section, and will give my reasons for that when that comes up.

Mr. BOYER. Mr. Chairman, I wish to offer as an amendment to the motion to strike out, to precede the section with the words, "until otherwise provided by law."

No second.

Mr. ALLEN. Mr. Chairman, in order to save time, it seeming to be against the wishes of this Convention, I will withdraw the motion.

Section 2 was read.

Mr. CHIDESTER. Mr. Chairman, I make the motion to strike this section out. It has been asserted that the first section is to protect the poor man. I think this other section is to protect the money lender. Under our present law, the head of the family is allowed one thousand dollars, five hundred dollars for the wife, and two hundred and fifty dollars for each child. Now, I think that this is not as good as the law that we already have. The exemption of forty acres of land is not a good provision because one piece of land owned by one party may not be as good in value as that owned by

another. I think it should be placed on a money valuation basis.

Mr. SNOW. Doesn't this section provide for a money basis of fifteen hundred dollars?

Mr. CHIDESTER. Well, if I understand it aright, it is not true.

Mr. SNOW. Do you not understand that "not to exceed fifteen hundred dollars," applies to the forty acres as to the city lot?

Mr. CHIDESTER. I understand that the exemption is to be forty acres of land, or instead thereof, at the option of the owner, a city lot. If he has land and also a city lot, he can take his choice, but if he has not the city lot, the land is his exemption, and no matter what the value of it is, why, that is all that can be exempted. I think it should be on a money basis. If he has not the town property, then we have got to take his exemptions in forty acres of land, let it be good or bad. Now, under the present law, there is so much exemption, and I think it is a much better law than this. Then, besides that, I think this is a piece of legislation that should be left to the Legislature. They never have shown any disposition to rob the poor man or to change the exemption so but that the debtor was well protected, and it is my opinion that they never will seek to change it to injure the poor man, and for that reason I think that this section should be stricken out.

Mr. BOWDLE. How would this protect the money lenders, Mr. Chidester?

Mr. CHIDESTER. Because it seeks to make the exemption less than the amount that we have at present.

Mr. BOWDLE. It might or might not, might it? Suppose that described a man and his wife under the present law, he would not have fifteen hundred dollars, would he?

Mr. CHIDESTER. Well, that is true, but if they had eight or ten children, they would only have the same amount; I think it is unjust in

that, too. I think the larger the family the more exemption they should have.

Mr. HART. Mr. Chairman, I am in favor of striking this section out for the reason that it is very much less liberal than the present exemption law of Utah. This may be a very good provision in the state of Michigan, and I have no doubt of the wisdom and ability of Judge Cooley to draw a constitutional provision on this subject which would operate properly in the state of Michigan, but I desire to call the attention of the committee to the fact that conditions in Utah are different from almost any other state in the Union. On account of Indian difficulties here in early days, this whole country was settled in a peculiar manner; that is, instead of going and living upon their farms, as they have done in the state of Michigan, in Utah they have settled upon the little lot in the town, village, or city, and have their adjoining farms scattered in various directions through the surrounding country, in five, ten, and twenty acre tracts. Now, Mr. Chairman, nearly every state the Union has an exemption of a homestead and it has an exemption as a homestead, as such. That is, it must be one tract and the dwelling must be upon that tract; even if a street intervenes between the homestead and the land, the land would not be considered as a part of the exemption. Courts have even gone so far as to hold that where two tracts of lands simply join, by meeting corners, that the tract was not a part of the other tract upon which the homestead stood; so that every state in the Union, with the exception of perhaps two or three—Texas, perhaps, California, and the state of Utah, there is an exemption of so much land, but in Utah, there is an exemption of value, and the person is entitled to so much value regardless of where the same may be. Part of it may consist of a little homestead in the town, and the other part may consist of five, ten, fifteen, or twenty acre

tracts scattered over the surrounding country. If you pass this article, the result will be that a person will have to take his choice between an exemption of the farm, upon which he may have a homestead, and his home in the city. If he is situated, like the great majority of the people of the Territory, with a home in the town or city, and a farm outside, the only exemption he can claim under this will be the exemption of his home, and his land will go. If he lives on the farm he can only retain the forty acres. I am opposed to this for the reason that it is not suited, it is not adapted in any respect to the people of the Territory of Utah. I am in favor of an exemption of value consisting of a definite amount, either based upon the number of persons composing the family, or of some fixed amount, but with this it will give a man no exemption of land, if he happens to live in the city, which the great majority of people in this Territory do. There can be no doubt but what there are no two exemptions here, but simply the one. If he is living on a farm, an exemption of forty acres, or if he is living in the city, an exemption of the city lot; and with the condition that city lots or forty acre tracts, as a general rule, are not worth fifteen hundred dollars, it would be a meagre right indeed to secure to the people of Utah. It would be throwing away and abandoning a good system that we already have and forcing upon the people something that will not be adequate to their needs. I am in favor of striking it out.

Mr. KEARNS. Mr. Chairman, I will have to add to the remarks of the eloquent gentleman from Cache. I do not wish to wear out the good patience of this committee discussing this all day. It is useless, for I think the gentlemen have come to the conclusion that this is a very good article and will maintain it. He says the same state of affairs does not exist in Utah that exists in Michigan or California. Now,

it is very necessary for the orphans or widows of Utah to have protection, just as well as in those states. Reference has been made, if the gentlemen will remember, by most every member of the legal fraternity on this floor since this Convention opened, to Judge Cooley. It has been stated that he was an able constitutional lawyer. Not belonging to that fraternity, I listened to their eloquent praise on this matter, and thought he was, too, but since I have examined this article in the constitution of Michigan, I concede to the gentlemen that he was more than eloquent; he was a true man, to protect the poor of the state he was in, and I trust the motion to strike this out will not prevail, and not only this, but any section in this article.

Mr. CREER. Mr. Chairman, I am satisfied that the gentleman has not given this section deliberate reflection or else he may not be fully conversant with our present laws. I agree with the gentleman from Cache (Mr. Hart), that this section is not suited to the condition and situation of the people of this Territory, because a great many of the owners of real estate live in small towns, villages, and settlements, and as he has remarked, under our present law, it is valuation. Now, under this law, it would prevent the man who had a little homestead, city lot, small home, from having anything else exempt than that. As he remarked, the law as it stands now, the land can be taken in detached pieces, and it is exempt to the amount he stated, one thousand dollars to the head of the family, five hundred dollars to the wife, and two hundred and fifty dollars to each of the children. That is not the only objection; we have lien laws. This would sweep out, to my understanding, the protection that there is to the contractor; to the builder, to the material man, and the man who labored in building the house, there is no protection. It simply would remove that protection

away, because it is a protection against any and all contractors. Now, I think that the laws are very good as they stand to-day, that it should be the valuation of the homestead, and our law as it stands is much more liberal than this is. It gives a better opportunity for the man to secure his home, and, furthermore, this will place the single man precisely on the same grounds.

Mr. CORAY. May I ask the gentleman a question? If the town lot or city lot mentioned in this section should happen to lie under the Gardo house, would not you think the exemption sufficient?

Mr. CREER. I understand it is only exempt to the amount of fifteen hundred dollars, no matter where it may be. It names the amount; but there is another objection to the section, and that is that the single man stands exactly upon the same ground as the married man. He may have a homestead to the amount of fifteen hundred dollars. You are talking about the widows and children. Why, you are protecting the single man to the detriment of the man of family. If a married man, the mortgage would not only be valid without the consent of his wife, which clearly means that a single man can have an exemption to the amount of fifteen hundred dollars. Now, our laws do not grant that privilege at the present time, and I think the whole plan or system of this section is entirely wrong. I am in favor of striking it out. It is not fair.

Mr. ROBERTS. I would like to ask the gentleman, if he can, to explain how this section affects the mechanic's lien laws in this Territory?

Mr. CREER. Of course, it makes provision that any debt contracted after this Constitution—but I say it is in opposition to the present system, to our own lien laws as we have them to-day—the mechanic's lien and the material man—he who furnishes the lumber and the material, simply because they are protected; they have a mechanic's

lien and this does not provide anything of that kind, but simply independent of any debt whatever, it gives him a protection of the homestead. I say it is entirely different, whatever the situation of the people of Michigan may be. I think that our system is much better than this provides.

Mr. EVANS (Utah). Mr. Chairman, I propose an amendment to this section, by striking out all of section 2, down to and including "constitution," in line 14, and substitute the following:

Every person, the head of a family, shall have exempt from execution, real estate to the value of fifteen hundred dollars, together with a house thereon.

Mr. LAMBERT. Would you be willing to include in that amendment of yours, two hundred and fifty dollars for each minor child?

Mr. EVANS (Utah). Well, I do not know; it seems to me that fifteen hundred dollars and a home on it ought to be enough. I think men ought to pay their debts, and I am highly in favor of protecting the family in the homestead right and with some land. Now, my reasons for offering that is this: Under this, as I comprehend it, if a man had a little city lot, as many of our people have in villages, with perhaps half an acre of land, just barely enough for him to live on, and a very small garden, that under the provision of section 2 as I have comprehended, if he should select that as his homestead, it would cut him off from every other particle of land that he may have. He may have forty acres of land that would be worth very little more than this half acre of land would be in the townsite. I know of such cases in the town where I live. When you take in consideration the fact that he has a little house and that in addition to that lot, his selection would be that little home, thereby depriving him of five acres or ten acres of land that he may have had in the field. The object of this motion is that he should be

protected first in his home, if it shall be a home that is worth fifteen hundred dollars, exclusive of the house thereon; then he ought not to be exempt from more, but if it shall be a little lot, that is worth three hundred dollars or four hundred dollars, then if he has a small farm, he ought to be protected in that, that they could be joined together, so long as in the aggregate they do not exceed fifteen hundred dollars.

Mr. JOLLEY. The homestead—the little home and the piece of land, suppose it lays a distance from the homestead, would that make any difference?

Mr. EVANS (Utah). I think that this would cover it, if a man owned in the city a lot worth five hundred dollars, and he owned a farm in the field that is worth a thousand dollars, that this would exempt it.

Mr. IVINS. Is it not a fact that under your amendment, an exemption would be granted of lands to the amount of fifteen hundred dollars with the house that was on them, regardless of the value of the house?

Mr. EVANS (Utah). Yes, sir.

Mr. IVINS. Then, a man might own a city lot, and he might have a house on it worth twenty or thirty thousand dollars.

Mr. EVANS (Utah). As I remarked, this is very hurriedly drawn up.

Mr. MALONEY. I did not hear your amendment read, but would not it meet the objection by striking out the words "and occupied," in lines 10 and 9?

Mr. CREER. I desire to offer this as a substitute for the entire section. I think it is much better:

A homestead, as provided by law, shall be exempt from forced sale, under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists, but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon.

Now, that is all there is in Wyoming, and that would be in accord with our present law. It seems to me much better than the section as it stands, or the amendment offered by the gentleman from Utah County.

Mr. RICHARDS. Mr. Chairman, I am in favor of liberal exemptions, and I am therefore not in favor of the section as it stands, in the report of the committee. It is not in my opinion a good provision; that is, it is not a provision that is applicable to the condition of the people of this Territory. The gentleman from Summit seems to think that it necessarily follows that because Judge Cooley is a great constitutional lawyer (and I say in passing that no man has a greater reverence or respect for his ability in that capacity that I have), that therefore everything that Judge Cooley may prepare or recommend or suggest for the state of Michigan must be exactly the right thing for the Territory or State of Utah. Now, this provision may be all right in Michigan. I do not propose to say anything about that, because I do not know how it works there. I am told by gentlemen who do know or claim to know, that it works well, but I say that it is not applicable to the people of this Territory or of the new State. We have now, as has been stated here, an exemption law that is infinitely better than this, in my estimation. It is a law by which the head of the family is entitled to a homestead of the value of one thousand dollars in his own right. If he has a wife he gets an additional five hundred dollars in valuation, and for each minor child, he gets an additional two hundred and fifty dollars. Now, it seems to me that that is a much more equitable and proper way of estimating exemptions, according to the size of the family, than to make an exemption of a specific sum, or of a homestead of a specific value, to apply to a man whether he has any family or not. I think the value of the exemption should

be determined by the size of the family. That is my idea about that. Now, as has been pointed out to you, in regard to the selection of the homestead, it has been held by the courts of this Territory, under the statute that I have referred to, that a man, if he has a little home in the town that is worth five hundred dollars, he may select that, and then he may select in addition to that a farm, or a meadow, or a pasture, or any other tract of land that he may, by which he obtains his subsistence, and the subsistence of his family. Isn't that just and right? I think so. I am not in favor of this provision. I think myself, that if we were to adopt such a provision as there is in the constitution of Washington, that that would be perfectly safe. There they provide in the Constitution, as is usual where any mention is made of exemptions, that the Legislature shall provide for the exemption of homesteads and personal property, to judgment debtors, the heads of families.

Now, I think that that would be sufficient, but if that is not deemed sufficient, then let us have something similar to the provision in Wyoming, or something that will be broad enough to give us such an exemption as I have spoken of that may be adapted to the size of the family, and the condition of the family. I am not in favor of the section as it stands, but am in favor of striking it out.

Mr. VARIAN. Mr. Chairman, I quite agree with the suggestions made by my colleague (Mr. Richards). It seems to me that this section as it stands is not only legislation, but of an extremely undesirable nature, and the amendment offered by Mr. Creer seems to contemplate matters that might properly be left to the Legislature. I do not see why, as suggested by one of the gentlemen, in place of sections 2, 3, and 4 we might not content ourselves with the provision "the Legislature shall provide by law for the selection and exemption

of a homestead from sale on execution." That is all that is necessary, unless we desire to tie the hands of the Legislature, and it may be, and probably will be, the case sooner or later that the people will want a change in that particular. Exemption laws are of great benefit, particularly in times of financial crises and distress, for the protection of the people. And I am utterly and entirely opposed to putting into the Constitution any fixed limitation, either of a maximum or a minimum, in regard to that matter. If the matter were now open for amendment, I should offer substantially what I have read, in lieu of section 2, and then move to strike out sections 3 and 4, if it should carry, because all that follows, as a matter of course, if there is an exemption.

Mr. ELDREDGE. Mr. Chairman, I have an amendment prepared that I was thinking to offer, but as it is so that I cannot now, I will simply make it a portion of my remarks, and read it that the delegates may have it before them in considering their vote upon the question now pending:

To all heads of family, there shall be an exemption of lands and the improvements thereon, not exceeding in value one thousand dollars, and if such head of a family be married, five hundred dollars for the wife and two hundred and fifty dollars for each minor child.

Then strike out all of section 2 down to the word "dollars," in line 11. Then, at the end of the section, add "But no property shall be exempt from sale for taxes."

The amendment of Mr. Evans, of Utah, was rejected.

The substitute offered by Mr. Creer was rejected.

Mr. THORESON. Mr. Chairman, I now move to amend section 2, by striking out the words, "not exceeding forty acres," in lines 1 and 2, and inserting in lieu thereof the word "consisting," and also striking out, in line 4, all

after the word "thereof," and all of lines 5, 6, 7, 8, 9, and part of line 10, to and including the word "State."

Mr. VARIAN. Mr. Chairman, I offer my amendment now to section 2 as a whole.

Mr. THORESON. Mr. Chairman, I think the amendment meets all the objection that has been brought out in opposition to the provisions of the section as it now stands. It will cover the peculiar conditions referred to by my colleague, from Cache, of people that may own a small portion of land adjoining the town and live within the town or vice versa. They may own part of the town lot; it may be a farm, and they may live immediately outside; as long as the value of their land does not exceed fifteen hundred dollars, it is exempt; also, to cover circumstances peculiar to our country. Supposing a man goes out on to 160 acres of dry land, under the present section, 120 acres of that land could be taken from him through failure of crops or otherwise, by which he could not meet his obligations. Now, if his homestead was not worth more than fifteen hundred dollars, it would be retained to him and his family. I think we should guard the homestead to this man, and I do not think the limit is too much under the circumstances that we find ourselves in, and I believe it covers the conditions of the Territory, and it conforms to a great extent to our present law.

Mr. VARIAN. I would like to have my substitute read now.

The same was read as follows: Strike out section 2 and insert, "The Legislature shall provide by law for the selection by heads of families of exemptions of homesteads from sale on execution."

Mr. VARIAN. Now, Mr. Chairman, why should we undertake to fix these matters of detail for all time, or at least until the Constitution shall come to be amended? Of necessity this question of exemptions from sale for the protection

of the property of debtors from the exactions and demands of creditors, is one of public policy, depending from time to time upon the condition of the people and the necessities which exist. I believe, although I do not speak by the book, because I have not made the detailed examination, but my general impression is from what I have read heretofore, that very generally throughout the country this idea is contained in the several constitutions. At all events, it seems to me that it is so manifestly reasonable and in accordance with the general intent and idea of constitution making, that it ought to be accepted to provide a limitation upon the Legislature beyond which they may not depart. That is to say, insist that there shall be the necessary exemptions for the protection of poor debtors, or the people, but leave that necessity to be determined from time to time by the Legislature, which is better enabled to pass upon the question, as the several legislatures meet, than this Constitutional Convention.

Mr. HART. Mr. Chairman, while Mr. Thoreson's amendment is a great improvement over section 2, yet I am in favor of the substitute offered by Mr. Varian, and I do not think it would be wise to define just what the homestead should be. I think we should provide as California, Washington, and other states have in a general way, that there shall be a homestead, and then leave it to the Legislature to say what that homestead shall be. Mr. Thoreson fixes it at fifteen hundred dollars. In some cases that will not be large enough. A man has a family of ten, twelve or more, a homestead of fifteen hundred dollars may be almost exhausted by the house and lot within the city limits, and then his farm that he should retain in order to support his family would be taken from them and sold to pay his debts. Whereas, if he is permitted to retain his farm, he would be able to

pay his debts from the proceeds thereof.

Mr. MURDOCK (Beaver). Mr. Chairman, this matter has been talked upon one side, but there is another side to this question that seems to me ought to be taken notice of. Now, my ideas in regard to a large exemption are, that in many respects it is very detrimental. There are some men that are always willing and struggling to pay their debts, and there is another class that are not willing, and they will make any agreement, either with a poor man or a man of means, and will make any promise, and of course that promise is very frequently accepted, and yet after they have contracted the debt, if they know that their property is inside of the exemption, there is very little exertion made by the persons to pay their debts. Now, it has a bad tendency, let me tell you, to have a very extended limitation, for this fact that people are not careful; if they know that the limitation is pretty contracted—pretty small, they will endeavor to work within that limit, but if they have a very liberal exemption of property by the Legislature, or by any means that there is an exemption, then they feel perfectly at ease to go into debt. Now, I contend that our present depressed times that we are now passing through, we will look back to and see that they are an advantage to the people in this respect. People will become more careful than they were formerly, and it is upon the same principle that you extend a large exemption to people, and they will be very careless and indifferent in regard to their indebtedness. Some men, it makes no difference how poor they are, will pay their debts, but there are many men, or persons, that will not pay their debts, and you cannot get it. The transaction is frequently between poor men. Of course men of means are able to take care of themselves—at least they do so, but I think that there should

be a restriction, and that men of small means, that contract debts with other men of small means, it is just as absolutely just that these men should pay their debts as it is that men should have an amount of property exempt. Now, this is a feature, perhaps, that some may not have thought of, but it is calculated to make men more extravagant and more ready to go into debt, if they know that their exempted property will warrant them to do so. I speak of this, that you may have that side of the matter to look at. The exemptions that are contained in this article here, seem to me to be quite sufficient for any reasonable man.

Mr. GOODWIN. Mr. Chairman, all the states recognize the justice and necessity of homestead laws. It is well under our Constitution to do the same, but it is a matter which the Legislature ought to regulate from year to year. A fifteen hundred dollar exemption would not be any more than a five hundred dollar exemption was twenty-five years ago. Probably a fifteen hundred dollar exemption will not be any more than a three thousand dollar exemption twenty-five years hence. The value of property is changing every day. The value of property is changing every day, and the necessities of men are changing every day, and that being the case, it ought not to be fixed and rigid in this Constitution, but after the principle is recognized, the whole business should be given to the Legislature to regulate from year to year. I favor the substitute.

Mr. HAMMOND. Mr. President, I am in favor of this substitute. As a rule, when anything is sprung on us from a republican, I am dead against it, but this substitute, I favor and I have my reasons. I do not wish anything fixed in the Constitution that shall in any way militate against the prospects of San Juan. While we have no widows there that I am aware of—I do not know of a widow in the county, but

with the surroundings and prospects, we are living in an Indian country, we do not know what may transpire any moment, and the time may come when we will have as many widows there as they have in Sanpete to-day, and I want a provision or want the Legislature to be foot loose, so that they can take care of this matter as the exigencies of the case may required from year to year. Therefore I am in favor of this substitute from the gentlemanly gentleman, of Salt Lake.

Mr. EVANS (Weber). Mr. President, if the gentleman from San Juan had not spoken when he did, but had waited until he found out the position which I take, his vote might have been different; I believe, gentlemen, in a Constitutional Convention, that we ought to recognize a substantial right to people owning homesteads and who have families and children dependent upon them. I do not believe that the article as first proposed would meet the conditions of our Territory. It has worked, I am told, admirably in Michigan. It was drawn there by the shrewdest constitutional lawyer living, and of course, he kept in mind the particular conditions of Michigan people. There usually people do not live in settlements as they do in Utah. That is not so much the rule, so that I think it would not be right to make a man either select a lot or his farm and lose one or the other. I believe that he ought to have a certain amount exempt in both lots and farms, because here they live in little cities and have their farms lying just adjacent to the town; but I do believe, gentlemen, that we ought to do something to recognize the right of the homestead. I am unqualifiedly in favor of that. The Varian amendment simply says the Legislature may do this. It has that unqualified power without our saying anything at all.

Mr. HART. Does not it say that the Legislature shall do so?

Mr. EVANS (Weber). Well, that would

be construed the same as may. It is not compulsory upon the Legislature when we say it shall do so.

Mr. HART. Would it be construed the same as may?

Mr. EVANS (Weber). It is simply directory, you could not compel them to do it. I believe the Legislature would. The argument has been made that it will have a tendency to make people go into debt. I have heard that matter discussed a good many times and there is a serious difference of opinion on that question. My own view is that the tendency is to keep people out of debt. I will tell you why. The creditor will extend credit more tardily when he knows that the man is secure in his home and his possessions up to a certain amount, and the individual owning the farms and homes will not go into debt so readily, because the creditor will not extend the favor. It will keep people more out of debt. It will make creditors and debtors alike more careful in going into debt, and anything that will prevent indebtedness I believe is a good thing for the people.

Mr. President, I have formulated an amendment here which is not in order now, and I will read it, which I believe ought to be inserted, and the substance of it is, following Michigan, that it allows a homestead of at least fifteen hundred dollars in separate parcels of land, so that the Legislature may grant more, but my own idea is to fix it constitutionally, that the man owning a home and having a family will be secure in his home against any creditor who might issue an execution, and have it levied upon his home, and have it sold out, and thereby divest his family of shelter which is so much needed. I will read it as a part of my argument:

Every homestead of not exceeding forty acres of land and the dwelling house thereon and the appurtenances, to be selected by the owner thereof; or instead thereof, at the option of the owner, any lot, in any city, village, or recorded town plat, or such parts or

lots thereof, and its appurtenances, owned by any resident of the State, of at least the value of fifteen hundred dollars, shall be exempt from forced sale on execution or any other final process from a court for any debt contracted after the adoption of this Constitution. Selections may be made from one or more parcels of such lands, to the amount of the sum herein designated. Such exemption shall not extend to any mortgage thereon lawfully obtained, but such mortgage or other alienation of such lands by the owner thereof, if a married man, shall not be valid without the signature of his wife to the same.

Mr. CHIDESTER. Under that amendment, a man cannot have more than forty acres of land, if I understand you?

Mr. EVANS (Weber). He cannot have more than forty acres of land, if it is of at least the value of fifteen hundred dollars.

Mr. CHIDESTER. As I understand it, no matter what the value is, he cannot go over forty acres?

Mr. EVANS (Weber). I think that would be the proper construction of it.

Mr. CHIDESTER. So that, in that respect it stands the same as in the original section?

Mr. EVANS (Weber). But I will say this, if he owns a farm that is not worth fifteen hundred dollars and he owns a city lot, which would make the two worth fifteen hundred dollars, he could claim both.

Mr. CHIDESTER. But if he did not own a city lot and only owned forty acres of ground, no matter what its value might be, he could only take the forty acres of ground.

Mr. EVANS (Weber). That is right.

Mr. CHIDESTER. And the land might not be worth five hundred dollars.

Mr. EVANS (Weber). Exactly; but if it is worth more than fifteen hundred dollars, of course it could be sold.

Mr. THORESON. Mr. President, I agree with the gentleman from Weber that we should have something in this Constitution to guard the homestead of our residents and those who may be.

We expect an influx of people into this new State, and sending them our Constitution, we want to send them our guaranty that when they dispose of their property east and move into our State, with the wife and the children of such families, they may have some guaranty that they will be provided for at least to the extent of fifteen hundred dollars. Now, it is stated that this may be left to the Legislature. I have heard time and time again by the representative men of this Territory, expressing their want of confidence in future legislatures, and it is a question in my mind if the people of this Territory entertain the same lack of confidence, and I say in looking over the constitutions of so many states, we find that this is provided for as a guaranty to the families of the residents of the state or those who may be, and I think we should do something definite on this subject. I believe furthermore, that fixing the exemption at fifteen hundred dollars, and without including land, whether that be forty acres or one hundred and sixty acres, or whether it be confined to the one acre, so that it is the land that is used for the homestead and upon which the family subsists, that it will be guaranteed to that family forever from encroachments of any kind. I believe, gentlemen, that if a man gets in debt over and above this amount that he ought to pay the debt. If the man leaves his wife and children, whether he has a large family or a small one, with fifteen hundred dollars, it is a safeguard and a satisfaction to them, and I do not think that they could ask for much more, which in our Territory would be an average endowment, and that which is provided now by law—both exemptions, and the right retained on the widows and children from the estate of their deceased husband and father. I hope that in considering my amendment to this provision—it leaves the field open as regards the amount of land. It allows the head of the family to designate

the appurtenances belonging to that homestead. Some objections have been made that water rights should be included. I say that water rights are the appurtenances unto the land and he has a right to designate and select them; also a home and such other property to the amount of fifteen hundred dollars, with the provisions we have already adopted in section 1; two thousand dollars I think is a liberal law on this subject.

Mr. JAMES. Mr. President, I did not intend to say anything on this question until I saw that there was a disposition to say everything on one side and nothing on the other. The only gentleman that I have heard on the floor that seems to view this thing from both sides of the question is Bishop Murdock. The balance of them have all been talking that they must appoint a guardian to take care of the people, and they see nothing beyond that proposition. Now, I want to say to you, there is another side to this question. I call this Convention's attention to the fact, in place of bringing people into the Territory, the provision of the gentleman from Cache will keep them out of the Territory. Let a man travel down through the newly settled portions of Nebraska, Kansas, and that country where the poor honest man goes out from the city or some foreign country and locates on a piece of land, and all he has got in the world may be is a pair of cows or a yoke of oxen, or a single mule, or something of that kind, and he goes to breaking up land, under the right of homestead. He goes to the merchant near by and he says to him, "I want a few supplies to tide me over this summer until I can raise a little crop, and I will pay you back." The merchant credits him, but these gentlemen would make a provision here which would prevent him getting credit. He must have a house of fifteen hundred dollars, and he must have so on, that will be exempt from the payment of certain debts.

Why, you are just simply putting a prevention in the way of the poor man of going to the store and getting credit.

Mr. CHIDESTER. Those people could give a mortgage on this under this proposed amendment, could they not?

Mr. JAMES. They have not acquired title to their home yet.

Mr. CHIDESTER. Then they could not take it away?

Mr. EVANS (Weber). Yes; they could sell out their possessory right under execution.

Mr. JAMES. Of course, I want to see something done in the way of protecting people, and leaving something to orphans and widows, but I believe it will be much more safely done by Mr. Varian's amendment, by leaving it to the Legislature.

Mr. BOWDLE. Mr. President, I want to say a single word in answer to what Mr. James has said. He speaks of Kansas, as though there was no exemption law. I would like to remind the gentleman that the constitution of Kansas provides that there shall be a homestead of 160 acres of farming land. That is a good deal more liberal than we are proposing to give in this Territory.

Mr. EVANS (Weber). Permit me to say that I will change my substitute, if we ever reach it, to 160 acres, because it will make no difference anyway. The value should be fifteen hundred dollars. While I am upon my feet, I simply want to say that for the purpose of securing in the Constitution that much value to the settlers, and those who have families, this provision should be adopted.

Mr. MALONEY. Mr. President, I will take up but a moment of time. With the change made by my colleague from Weber County, I will be glad to vote for his amendment. The gentleman from Salt Lake who just addressed the committee, argued that it would keep people out of Utah, if they came

here, and could not get credit. I want to say to this committee, that a liberal exemption law, or homestead law, is what built up the great state of Kansas. People by the hundreds and thousands came there because of the great protection that the poor people have. We have a proposition here to leave it to the Legislature. I want to say to you, when you leave it to the Legislature, you will find it changed at almost every meeting of the Legislature, like it was in some of the states east of the Mississippi. What we want is to fix it in the Constitution, and make it permanent, so that no Legislature can alter it. Now, when it is fixed, that is the end of it. In so far as the amount is concerned, when you leave it to the Legislature, it is continually being altered at every session of the Legislature, and you will see a great many complications growing out of the fact that it was one amount at the time of one contract, and another at another, and the courts will be flooded with litigation. I say make it permanent.

Mr. HART. How many changes have been made in the homestead exemption law in the last eight years in Utah?

Mr. MALONEY. I do not know that any have been made so far as real estate is concerned, but so far as changes have been made with regard to the exemptions of personal property—

Mr. CREER. I would like to ask how many changes have been made in personal property within the last twenty years?

Mr. MALONEY. I do not know, but there have been changes made several times within the last ten years with regard to the personal property exemptions.

Mr. CREER. I think the gentleman is mistaken.

Mr. HART. It made it more liberal.

Mr. EVANS (Weber). The Legislature of 1894 exempted the clothing of a man. Prior to that time, his wearing

apparel could be taken right from the hook, hanging in the house.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I am opposed to the original section and also to the amendment of Mr. Thoreson, for the reason that in both of these the amount is left the same for a man who has no family, as for the man, the head of a large family. No distinction is made and no difference would be allowed in either case. I think that a difference should be allowed. The Evans amendment, if it were presented, is one to which there would be less objection, and the only objection I would have to it would be the fact that it leaves it for the Legislature to change from time to time. I am in favor of fixing this matter—

Mr. EVANS (Weber). It cannot be less than fifteen hundred dollars.

Mr. CANNON. I understand that it cannot be less. I say to that extent I favor it, but at the same time, I say it would be better to fix it in our Constitution and leave it so that it would not be subject to change from time to time. I believe that the present law is one which is satisfactory to the people of Utah, and for this reason, whenever it is presented, I shall favor the amendment offered, or that will be offered when opportunity is presented, by the gentleman from Summit County, Mr. Eldredge. I believe that that comes nearer to giving justice to the people than any other, and I believe that it is one that should be fixed. To that extent I agree with Mr. Maloney and believe that in the Constitution is the proper place to provide what your exemptions of homestead shall be. I think that it would be eminently proper to fix it now, and I believe that men who loan money and men who give credit where it is fixed in the Constitution, will be better satisfied with it, than if it is left for change from time to time. I shall therefore vote against the original section and against these amendments,

and if given an opportunity shall vote for Mr. Evans' substitute with some amendment, possibly.

Mr. THORESON. Mr. Chairman, the amendment I understood will be proposed, which is not before the Convention now, of the gentleman from Weber, confines the exemption to a certain number of acres of land. In regard to my amendment, it leaves the amount open. We have land in this Territory worth all the way from twenty-five cents to a thousand dollars an acre, and when you come to define the number of acres, I do not see where the consistency is. Confine it to so much money, fifteen hundred dollars.

Mr. LUND. I would like to ask a question of some member of this committee. Will this exemption extend to promissory notes?

Mr. THORESON. No, sir; the first section does.

Mr. LUND. Mr. Chairman, I hope that this will be left to the Legislature and that they will not make the exemption very great. For instance, if I were a married man and I should buy from some neighbor who thought I was honest, land and the improvements thereon, and he left it to my honesty, and it was not worth fifteen hundred dollars, and my property was not worth that much, he would be turned out and I would be turned in. He would not hold anything in the world, and I would own all that he had owned, and I would be exempt; execution could not be served upon me. I think that this exemption is not a very fair law. I am very much of the opinion that Mr. Murdock has expressed.

Mr. THORESON. Are you opposed to section 1 or 2?

Mr. LUND. Both of them.

Mr. RICHARDS. I desire to ask Mr. Varian if you would accept a slight amendment to your substitute, so that it would read as follows?

The Legislature shall provide by law for the selection by each head of the

family an exemption of a homestead of the value of at least fifteen hundred dollars from sale on execution.

Mr. VARIAN. Yes, sir; I am willing to let that take the place of mine.

Mr. HART. I would like to ask Mr. Richards the purpose of that—if it is not to require the head of a family to make his selection and to record it as required in some states, such as Idaho, and if he would omit to declare that he desired to retain that homestead, he would not have a right to do so, having it made a matter of record by the county recorder.

Mr. RICHARDS. I suppose it would require a selection. I presume, however, that if he desired it to be modified in that particular, the gentleman from Salt Lake would agree to it. In that particular it follows the language of Mr. Varian's amendment, so that the question should be directed to him.

Mr. EVANS (Weber). It would still be statutory. The Legislature could provide for it.

Mr. RICHARDS. Certainly.

Mr. EVANS (Weber). And it could repeal that act whenever it wanted to.

Mr. RICHARDS. Yes, but it could not provide for less than a fifteen hundred dollar exemption.

Mr. EVANS (Weber). That is, if it provided for it at all; but it would not have to provide any exemption at all.

Mr. RICHARDS. It is hardly to be supposed they would not provide some exemption.

Mr. VARIAN. Mr. Chairman, there are just three or four objections that I desire to call attention to. Taking the last question of Mr. Hart first, it does not necessarily follow that the selection shall be made in the form indicated. It may be, as now, selected at any time—when execution is levied, if the Legislature shall so provide; but let me call the attention of the committee to the fact that we have, I presume, what is deemed to be a good exemption law. It has been on the statute book for a

number of years. Under this Constitution it would be continued in force until changed by the Legislature. Now, this constitutional provision simply guarantees that it shall never be changed, or that it shall never be obliterated. It must be maintained in some form or other. As to the objection that the word shall be construed as may, as I understand, that would do violence to all rules of statutory construction. Where the word shall is to be deemed directory, always, is made to depend upon the meaning of the Legislature in that particular, and that is to be gathered from the context. Nothing is to be determined here except the fact that the word shall means just what it says, that the Legislature shall provide by law. In relation to the suggestion made by Mr. Thoreson, in regard to water rights, that simply indicates now the difficulty of attempting to legislate upon this subject in the Constitution. Water rights are not part and parcel in all cases of the realty here, or appurtenant to the land. In many instances, under your laws, they are considered personal property. Then, again, you are confronted with this other difficulty. Under the United States laws, men holding homesteads of 160 acres of land, under the laws of the United States, have them exempt. The Legislature, in dealing with this question, would regulate the whole subject with reference to the exemptions and necessities of the case.

Mr. EVANS (Weber). I agree with you about your construction of the word "may" and "shall" in legislative enactments, but in this sense, where a Constitutional Convention directs the Legislature to do a thing of this kind, by using the word shall, is it compulsory upon the Legislature?

Mr. VARIAN. I think it is, without question. "Shall" means what it says, otherwise, why say anything about it? If the Constitution means that it shall be left to the Legislature to do it or not,

there is no necessity for putting anything in there at all. Now, this is in accordance with the constitution of many of the states, certainly of California, Nevada, Oregon, and Colorado, I believe, and I simply was endeavoring to show the difficulty of doing exact justice in the matter by attempting to put in details and surrounding the matter with restrictions and limitations. It ought to be left to the Legislature, because, just as sure as you undertake now to cover the subject, you will ascertain that you have omitted something, when it is too late, or conditions and necessities of your people may change. There may come a time when you would want an exemption of five thousand dollars. Then again the time may be when the people of this State will want it two thousand dollars, or, as has been suggested by Mr. Cannon, in relation to the number in the family; but as it stands now, with this provision in the Constitution, the existing law will be maintained until the Legislature shall modify or change it, but it never can wipe it out.

Mr. GOODWIN. Mr. Chairman, I only want to call attention to the one fact that water rights are personal property, and another, that the provisions of this Constitution are mandatory.

The amendment of Mr. Thoreson was rejected.

The question being taken on the substitute of Mr. Varian, the committee, divided, and by a vote of 53 ayes to 15 noes, the substitute was adopted.

Section 3 was read.

Mr. SQUIRES. Mr. Chairman, I move that section be stricken out.

The motion was agreed to.

Section 4 was read.

On motion of Mr. Squires, section 4 was stricken out.

Section 5 was read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "by" and

before the word "gift," in line 4, the word "purchase."

Mr. LAMBERT. Mr. Chairman, I move to strike out the whole section.

Mr. LUND. Mr. Chairman, I do not think that that word "purchase" should be inserted there, because I do not think it is a correct principle that property should ever be exempt from sale for the payment of obligations contracted for the purchase of the same.

Mr. VARIAN. That is not what it means.

Mr. CHIDESTER. As I understand it, that does not reach the objection of Mr. Lund.

Mr. LUND. I will introduce that as a new section.

Mr. EVANS (Weber). Mr. Chairman, I fear that this section will go out, because the others have been stricken out, and I do not think if the gentlemen understand it they will strike it out. Under the old common law, whenever a woman married, her property became the property of her husband. They were in law one. This is simply a recognition of the right of women to acquire and dispose of property after marriage, just the same as while single. I think that right ought to be recognized. It is in keeping with all the advance of recent years.

Mr. HOWARD. Mr. Chairman, we have in this Convention been working hard to give women equal rights with men, and we have done so up to the present time, and I propose giving them the same rights in this. For that reason, I will make the motion to strike out all of section 5, commencing with the word "and," in line 6, and insert: "And may be sold, devised, or mortgaged by her, but such sale, or alienation, if a married woman, shall not be valid, without the signature of her husband to the same." [Laughter.]

Mr. VARIAN. I want to call the gentleman's attention to the fact that the first part of this amendment is unnecessary. It is included in the right of

property recognized in the section as it stands, and it would be manifestly unjust, and an unnecessary restriction upon the recognition of the right of property to require the signature of the husband. That would practically give him the control over her property.

Mr. SNOW. I arise to point of order. That was not seconded.

Mr. VARIAN. Well, I will discuss the motion to strike out, then. This is simply a literal statement of the law as it now exists on the territorial statute books, as I recollect it, and it is, as suggested by Mr. Evans—it was to meet the rigor of the common law rule, by which, when a woman married, her property—her personal—became transferred to the husband and the right to the use and occupation of her realty, and I hope that if any recognition at all is to be given to the property rights of women—dowers will have been abolished when the Constitution goes into effect, that at least this much will be accorded to them, that the estate of the woman when she enters the married state shall be her own, to be disposed of just as she sees fit, without any control or limitation by the husband.

Mr. CANNON. Did I understand you to say that the dower will be abolished when the Constitution takes effect?

Mr. VARIAN. I understand so, because there is no territorial statute giving the right of dower. There is a territorial statute regulating that right as it was created and given by the act of Congress, and of course the act of Congress would fall in its operation here.

Mr. RICHARDS. Mr. Chairman, I certainly think this motion to strike out ought not to prevail, and I believe that every gentleman who will give the matter proper consideration will come to that conclusion. I am very much surprised to hear the motion made. I think it must be under some misapprehension. It is not only the statute of this Territory to-day, but it is the law

in very many of the states of this Union, that women shall have separate property rights, and that is all that this section is intended to preserve. I regard it as a very important section and think it ought to remain, but I think that a woman ought to have the right to purchase property, as well as the right to receive by gift or inheritance. If she happens to have money—if she receives a bequest in money, she ought to have the right to invest that money in property and by purchase acquire the title. That is the reason why I propose the amendment to insert the word purchase in the fourth line.

Mr. RALEIGH. Would not that allow the woman to purchase the husband's property, too, and screen it from his debts?

Mr. RICHARDS. Well, it is possible that she might purchase property from her husband, but if she did purchase it, she would have to pay for it, and of course the matter of screening from debts—I do not see how it could affect that at all, because if the purchase was not a bona fide purchase it would not affect the creditors, and if it was a bona fide purchase and she paid value for it, then the creditors would have a lien on what she paid him.

Mr. RALEIGH. Yes; but it is too easy to keep that purchase money out of sight.

Mr. RICHARDS. I submit that that can be no excuse for denying a woman the general right to purchase property; because that right could be abused is no reason why she should be deprived of the right.

Mr. RALEIGH. I am in favor, Mr. Chairman and gentlemen, of the section as it stands.

Mr. CANNON. I would like to ask Mr. Raleigh, if you would prohibit a man from selling his property to another man who desired to purchase it?

Mr. RALEIGH. No, but I—

Mr. CANNON. Then would you prohibit a woman from purchasing a piece

of property, even if it belonged to her husband, if she had the money to buy, and it was a desirable piece in her eyes?

Mr. RALEIGH. Well, I would not if there wasn't some shennannigan about it. [Laughter.]

Mr. CANNON. Mr. Chairman, shennannigan would be a different proposition. Purchase is all we provide for, and I think it is eminently proper it should be granted.

Mr. EVANS (Weber). Mr. Chairman, I think the Richards amendment ought to prevail. This might prevent a woman from purchasing a farm and owning it after she had purchased it. It might prevent her from purchasing a horse and buggy. The rigor of the common law might come in and simply give it to her husband, because she could only acquire title under this by gift, grant, inheritance or devise. The word purchase is usually used. I think it is in our statute.

Mr. RICHARDS. It is in our statute, and I think it is omitted here in an inadvertence.

Mr. EVANS (Weber). This must have been an accidental omission.

The amendment of Mr. Richards was agreed to.

Mr. BOYER. Mr. Chairman, I believe I seconded the motion to strike out section 5. The reason I did so was that the mover—thinking he was a man too much married and wished to take away some of the liberties of woman.

The motion to strike out was rejected.

Mr. EVANS (Weber). Mr. Chairman, that ends the article, and I would like to call Mr. Varian's attention to one thing which he has already indicated and which I have had in mind. The only dower act which we have is that of Congress. As soon as this Constitution is adopted, and Utah becomes a State, dower will be repealed. Then a man can dispose of his property if he desires to, without the consent of his wife. I just want to suggest, if it would not be a good idea to add to the Varian

amendment, as amended by Mr. Richards, that he should not alienate or mortgage his property, without the signature of his wife. Otherwise, there will be a little period between the adoption of the Constitution and the sitting of the Legislature when this condition of things might exist.

Mr. HART. I would like to ask the gentleman whether he is sure that the territorial laws do not provide for right of dower for women, as well as the United States law? My impression is that there is a territorial law in addition to the United States law. There was an act passed on this question last winter which provided that they should not have dower under both acts. That is why I am very certain that there are two acts.

Mr. EVANS (Weber). I am inclined to think not. Mr. Varian, himself, will say that he prepared that dower act and it was only in aid of enforcing the act of Congress.

Mr. VARIAN. Mr. Chairman, in order to be speaking to a question before the committee, I move that we do now arise and report this article as amended, to the Convention, and now I will be in order to say a word or two. I think Mr. Evans is correct. I had occasion, since he has spoken of it, to give the matter some attention several years ago and drafted two territorial acts, one in relation to administration of probate law, and in relation to the district court jurisdiction, governing the regulation and exercise of this right of dower, and that was enacted by the legislative assembly, and as I remember it, the original territorial act was repealed many years ago; at least a prohibition was put in that there should be no dower. The trouble about the suggestion made by Mr. Evans, to my mind is this, if we put into the law a requirement that the husband cannot dispose of his realty without the wife's signature, you put us just in the very undesirable situation that we are in to-

day. For instance, a man supposed to be married—there have a number of instances happened in Salt Lake within the last year or two, and some are now in court; suits brought to quiet title, where it was supposed that the man was unmarried. After property passed through his hands, perhaps through the hands of several people, some woman turns up and claims to be his wife. Instantly the further disposition of that property is arrested. I know of one instance here where a large and valuable corner lot in the very center of the town is remaining unoccupied, the owner awaiting developments in that particular, before he desires to spend the necessary money to put up a building, because some one of the persons through whom he derives his title, it appears now may have been married, and the signature of the wife was not to the deed. Of course that arrests all further disposition to the property.

I am in sympathy with the sentiment underlying what my friend from Weber suggests. I am in favor, and was, of incorporating in this Constitution a recognition of the community system, and in that view I presented to some one of the committees, at the beginning of the session, an article drawn in exact conformity with the constitutions of California and Nevada on that subject, which enables the wife to participate equally with the husband in all the earnings and accretions derived by either of them during the marriage, but it was not reported upon, and I took it for granted it was not in accordance with the sentiment of this people, so I did not press it. I will withdraw the motion to arise now.

Mr. HART. Mr. Chairman, on further thought, I am satisfied the gentleman from Weber is correct about there being no territorial law of dower. What I had in mind was in regard to succession, and the act passed last winter would prevent a dower, and also a succession under the territorial law.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee, I desire to introduce four sections to add to the article on miscellaneous, and the four sections treat of three different subjects, and I would ask you to be patient and hear them, and if there is any merit in any of them, why retain them; if there is no merit, why, of course, the committee will dispose of them as they think best.

The sections referred to were as printed in the article reported by the committee on water rights, irrigation and agriculture.

Mr. EVANS (Utah). Mr. Chairman, I arise to a point of order. That section has been killed at least four times in this committee and in the Convention.

The CHAIRMAN. The point is not well taken.

Mr. CREER. Mr. Chairman, I arise to a point of order, that the subject matter of those sections has been acted upon by the Convention, and through the regular committees before, and that this is out of order.

The point of order was overruled.

Mr. EVANS (Utah). Mr. Chairman, my point of order was that section 4 is exactly the same thing that we have passed upon in this committee four or five different times. I shall appeal from the decision of the chair.

Mr. SNOW. Mr. Chairman, before you put the appeal, did the chairman understand that this same section, word for word, was stricken out in committee of the whole and also when it came to third reading in the Convention?

The CHAIRMAN. The chair understands it.

Mr. SNOW. Twice or three times it was stricken out. We have a rule that equivalent motions must not be entertained. If the chair understood it right, I am surprised at the ruling.

Mr. HART. Mr. Chairman, this is almost the question that we voted upon last evening, except that there is this

difference. This is the exact thing that we voted upon once before and killed. The question last night was not exactly the same thing, and yet that was ruled out of order and the decision of the president sustained. Now, if that was right last night, the chair will have to be overruled in this instance, for this is exactly the same thing, and the consideration of it is not only prohibited by that special rule that the gentleman from Utah County quotes, but it is sustained by every principle of parliamentary law. There is no rule of parliamentary law which does not say that this would be out of order.

Mr. SQUIRES. Mr. Chairman, if I understood the motion of the gentleman from Beaver, it was to have four sections admitted into this article. Now, I submit if any one of those sections comes under the objections raised by the gentleman from Cache, and the gentleman from Utah County, that particular section may be ruled out when we reach it, but the proposition is for the consideration of four sections, and I think we should take them one at a time and consider them and raise the point of order when we reach the section that comes under the prohibition.

Mr. HART. The point is as to all four of the sections.

Mr. EVANS (Utah). They were read here to the Convention. I take it that they being permitted to be read as a whole, no point of order being raised, it could not be raised now, that each should be considered separately. Permit me to say that this matter in substance, if not in the exact language, was stricken out in the committee of the whole and also in the Convention in the bill of rights. It was again introduced in the committee of the whole under head of mines and mining. It was again killed there, reintroduced, and there killed, and it is for that reason that I raise the point of order.

Mr. JAMES. Mr. Chairman, how are we to know whether every section con-

tained the same matter that was brought before the Convention before, unless we take them up as we come to them? As Mr. Squires has suggested, if section 1 has been dealt with and it is the judgment of this Convention that it should be declared out of order and the chair not sustained, dispose of it that way. There may be one of these sections or more that it may be shown that the rule does not cover.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I understand the objection applies only to section 4?

The CHAIRMAN. The chair is of the opinion that if the point of order is made as to section 1, it is well taken, but the chair holds that we have no right to go to section 4, and raise the point of order on section 4 until we reach it.

Mr. EVANS (Utah). If that be the ruling, I do not object to it. I will withdraw the appeal and the objection also until we reach it.

The first section of Mr. Murdock's amendment was read.

Mr. SQUIRES. Mr. Chairman, before any point of order is raised on this question, would it not be well for us to look at the matter a little? Granted that we have at one time stricken this section out, members of the Convention realize—

Mr. SNOW. Mr. Chairman, I object to this proceeding. I raise the point of order now on the same ground.

Mr. THORESON. I make the point of order.

The point of order was sustained.

Mr. VARIAN. Mr. Chairman, I am going to ask the committee to rise for the purpose of allowing the committee on rules to report to the Convention, in accordance with the resolution on yesterday, because the committee on engrossment are waiting for our report. I move that the committee now rise.

Mr. CREER. I would like to ask the gentleman if he would not defer that

motion for a few moments and then we will probably get through this article.

Mr. CANNON. Mr. Chairman, I would like to present an amendment or an additional section. If the committee desires to rise now, that would prevent it.

The motion to rise was agreed to.

The committee of the whole, having risen, reported as follows:

Mr. PRESIDENT:

The committee of the whole have had under consideration the article on miscellaneous, and report progress.

The committee on rules and methods of procedure reported as follows:

Mr. PRESIDENT:

The committee on rules, in accordance with the resolution of the Convention 85 A (herewith returned), report the following resolution and recommend its adoption:

Resolved, That the Constitution of the State of Utah be carefully engrossed, without blot, erasure or interlineation, on parchment sheets, 11x17, and that the same, when properly attested by the president and secretary of the Convention and signed by the members, or a majority thereof, be bound between lids, in enduring form, and then be deposited in the office of the secretary of the Territory for delivery to the secretary of state for the State of Utah; and that a true copy thereof, attested by the president and secretary of this Convention, and bound in like manner, be delivered to the Utah Commission for submission to the President of the United States.

VARIAN,

Acting Chairman.

On motion, the report was adopted.

On motion, a recess was taken until 2 p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2 p. m., pursuant to recess, President Smith in the chair.

The PRESIDENT. I want to call the attention of the Convention to the fact that there will have to be an address to the people in connection with the Constitution, and a committee should be appointed for the purpose of drafting it.

Mr. CHIDESTER. Mr. President, if it is order, I would make a motion that a committee of seven be appointed.

Mr. BUTTON. Mr. President, if the motion does not so state, I move to amend that the chair appoint this committee.

Mr. BOWDLE. Mr. President, I wish to amend that by adding, of which committee the chair should be one.

Mr. CHIDESTER. Mr. President, my understanding is that the chair appoints the committee.

Mr. JAMES. That makes it a committee of eight.

The motion was agreed to.

The Convention then proceeded with the consideration of articles reported from the committee on compilation and arrangement.

Article V was read.

Article VI, section 1, was read.

Mr. HART. Mr. Chairman, I move to insert the article "a" after the word "and" and before the word "house." If it were not for the fact that subsequent sections show there are two houses, the way this sentence now reads, it would mean that there was one house only. You might just as well insert it anyway.

Mr. EICHNOR. Mr. President, I hope this amendment will not prevail. The Constitution of the United States, all legislative powers shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

Mr. CHIDESTER. I make the point of order, anyway, that this would not be a proper amendment at this time.

The PRESIDENT. The point of order is well taken.

Sections 2, 3, and 4 were read.

Mr. RICHARDS. Mr. President, it seems to me that in the seventh line it should be 1895, instead of 1896.

Mr. SQUIRES. Senators will not be elected until 1896.

Mr. RICHARDS. Why not? I do not understand that there is to be an election of State senators in 1896. The

members of both houses are to be elected in 1895, as I understand it. I therefore move that the figure 6 be stricken out and the figure 5 substituted.

Mr. ROBINSON (Kane). Mr. President, this refers to the senators and they are elected by the Legislature which meets next January.

Mr. RICHARDS. No; these are State senators.

Mr. BUTTON. Isn't this just as it was passed by the Convention? We have to elect on even years, not on odd years.

Mr. GOODWIN. Mr. President, as I understand it, the intention is to adjust them so that the regular election will come on the even years.

Mr. RICHARDS. As I understand it, the first senators are to be elected this year.

Mr. GOODWIN. Yes, sir, and that will end their term; they will only have one year's term. Then next year, there will be members of the Legislature, governor, and all the regular officers elected.

Mr. RICHARDS. If that is so, it is right as it is.

Mr. GOODWIN. I do not know what the gentleman had in view when he wrote it, but I presume that was it.

Mr. VAN HORNE. I call Mr. Richards's attention to the fact that it was discussed in the committee—this same article providing for the regular election of members of the house of representatives, to be held on the Tuesday after the first Monday in November, 1896, and biennially thereafter.

Mr. RICHARDS. I withdraw my motion.

Mr. THORESON. Mr. President, I move that the semi-colon after the word "election" be changed to a colon, in the sixth line, and that the word "that," in the seventh line, begin with a capital letter.

Mr. HEYBOURNE. Mr. President, are not those amendments a matter for

the revising committee to look after? We should not waste time in this body attending to those slight matters.

Mr. SNOW. Mr. President, I understand that our engrossing clerk is an authority on grammar. Mr. Kerr is a member of the committee on engrossment and enrollment, and I therefore move that all the matters of punctuation be left to the committee on engrossment and that they be left to adjust it.

The PRESIDENT. That is the way the chair understands it.

The amendment of Mr. Thoreson was agreed to.

Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 were read.

Mr. SQUIRES. Mr. President, the last word in that article ought to be "therein." Herein undoubtedly refers to this Constitution.

Mr. LAMBERT. It refers to this State.

Mr. SQUIRES. Mr. President, I move that that change be made.

Mr. CRANE. Mr. President, I trust this correction will not be made, making it "therein;" it refers directly to this State. When this Constitution is adopted, then we will be within the lines of this—"herein." When you are talking about the furniture in this room, "I own this room and all the furniture herein." If I own the furniture in the other room, I say, "and all the furniture therein." This does not refer to this paper or this book when it refers to this Constitution when it is adopted next November.

Mr. THURMAN. Suppose you are writing a lease referring to that house and you use the word "herein." What would it refer to, the lease or the house?

Mr. CRANE. Why, it would refer to possibly the house, but then you were not in the house at the time; you were not talking in the present tense. Now,

you are talking about this State and everything within this State.

Mr. THURMAN. Suppose you were in the house and were writing a lease about it, would you say herein or therein?

Mr. CRANE. If it referred directly to the house, I would say herein.

Mr. BOWDLE. Mr. Crane, in speaking with reference to the Constitution, we used in a number of places, haven't we, "herein?" Now, there we refer to the Constitution, don't we?

Mr. CRANE. And here you are talking of the State—of this State.

Mr. BOWDLE. If we use the word "herein" when we refer to the Constitution, should not we use the word "therein," when we refer to the State?

Mr. CRANE. I think not. I will say that the corrections that were made here day before yesterday, all those distinguished scholars in this Convention agreed that they were wrong and that "herein" was proper in this case, when we are referring to this Constitution.

Mr. RICHARDS. I would like to ask Mr. Crane, whether in the former part of the Constitution, where the changes were made to "therein," that remains so, or whether it has since been changed by anybody?

Mr. CRANE. It remains. It has not been corrected, but the committee are under the impression that it was entirely wrong and that the "t" should be stricken out wherever it is used in that sense.

Mr. RICHARDS. That may be, but this Convention has passed upon that question once or twice or more, and I wanted to find out whether or not the committee was changing this after the Convention had passed upon it?

Mr. CRANE. No; we do not change anything, but I wanted to draw it to the attention of the Convention now, so that we should know hereafter, in revising the article, whether we should add the "t" before the "h" and make it "herein" or "thereto," and so on.

Mr. RICHARDS. Well, that was the purport of our motion.

Mr. VAN HORNE. Mr. President, I suggest that this Constitutional Convention is the only body that is doing the business in this Constitution. If this definitely refers to the State and doing business within the State, and it refers to a State already accomplished, it should properly be "herein."

Mr. KERR. Mr. President, I just wish to mention one point, and that is, when we use the word "this," we will certainly have to use word "herein." If we say the "laws of the State," then we could use the word "therein," or if we use the words "that state," we could use the word "therein." This can be changed so that "therein" could be used, but if "this" is used, "herein" is correct.

Mr. SQUIRES. Will Professor Kerr kindly answer the question asked by Mr. Thurman? If he was drawing a lease on a house, and the furniture within that house, would he say, "that house and furniture herein?"

Mr. KERR. When you say, "that house," then "therein" should be used, but if you use "this," then "herein."

The question being taken on the motion, the Convention divided, and by a vote of 21 ayes to 42 noes, the motion was rejected.

Mr. SQUIRES. Mr. President, I do not like to leave that word "herein" there at all. I move that the words "or doing business" be inserted before the word "under," so that it will read "incorporated or doing business under the laws of this State."

The amendment was agreed to.

Section 27 was read.

Mr. KERR. Mr. President, the word "this," in the last line but one, of section 27, being used, the word "herein" must be used. I move the word "this," in the last line but one, be changed to the word "the."

The amendment was agreed to.

Mr. THURMAN. Mr. President, if it

is in order, I would like to call attention to the amendment we just adopted in section 26. It seems to me the way that now reads, "incorporated or doing business under the laws of this State," might be construed to mean incorporated under the laws of this State, and would not reach a foreign corporation at all. The evident intention of it was to reach a company incorporated in this State, or any kind of a company doing business in this State, but we have got it now, that they have got to be incorporated and doing business under the laws of the State before they can be reached.

Mr. VARIAN. Let me ask you, if you insert "or within" after the word "of," so it will read, "incorporated and doing business under the laws of, or within this State"—I make that motion.

Mr. THURMAN. I will second that motion.

Mr. ROBERTS. Mr. President, I shall vote against that amendment, because I think that the matter could be much more easily arranged either by changing "this" to "the," and it would obviate the necessity of making the transposition that was before made and then make it "therein," and I offer that, sir, as an amendment, so that we will not bungle this section.

Mr. THURMAN. I second the amendment.

The PRESIDENT. You withdraw yours, do you?

Mr. THURMAN. Yes, sir.

The amendment of Mr. Roberts was agreed to.

Sections 28, 29, and 30 were read.

Mr. RICHARDS. Mr. President, I think that the striking out of the word "to," in the seventh line, is a mistake. If it has been stricken out, I move that it be inserted.

Mr. CRANE. I should like to ask what is the reason that the gentleman asks that that be reinserted?

Mr. RICHARDS. Because it belongs there, that is the reason.

Mr. GOODWIN. Does it strengthen it at all, will it strengthen it or give it a new meaning?

Mr. RICHARDS. I do not think it will give it a new meaning.

Mr. GOODWIN. Then is it not superfluous?

Mr. RICHARDS. No, sir; it is not superfluous, in my judgment. The change made by the committee is not a good change. Therefore, I move to reinsert it.

The motion was rejected.

Mr. THURMAN. Mr. President, in order now to make the section harmonize and be consistent with itself, I move to strike out the word "to," in the second line, the second word "to."

The amendment was agreed to.

Section 31 was read.

Mr. KERR. Mr. President, I want to call attention to a change that was made yesterday on page 7. I think it ought to be uniform with the wording on page 15. As it is now, it is "this State—therein." I would suggest that in line 16, the word "this" be changed to "the."

Mr. HART. Mr. President, I am opposed to the motion. This is a very important article. This whole thing involves the compact and there may be some doubt as to just what you mean, if you change the word "this" to "the" I would prefer to have the "t" stricken off, and have the word "hereof," in order to retain the word "this."

Mr. KERR. I will accept that suggestion, strike out the letter "t," in the 16th line.

The amendment was rejected.

The Convention then proceeded to the consideration of Article VII.

Section 1 was read.

Mr. VARIAN. Mr. President, perhaps some gentleman can turn to the article in the schedule, which provides, as I remember it, for the taking possession by officers-elect on the Monday after the issuance of the proclamation of the

President. There seems to be an inconsistency between the two.

Mr. ROBERTS. In section 9 of article on schedule, there is a provision made for the election for the adoption or rejection of this Constitution, and for the State officers herein provided for.

Mr. VARIAN. No; it is section 14. I call attention to the provision in section 14 of the article on schedule, with a view to going back to the consideration of section 1. That provides that they shall take office on the first Monday next succeeding the issuing of the proclamation. Now, this article provides that the term of office shall begin on the first Monday in January, after the election, except that the terms of office of those who are elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January of the fourth year thereafter. My attention was called to that last evening. I confess now that I do not see any consistency in it as it was suggested to me.

Mr. GOODWIN. I would like to ask how long this first governor will serve under this arrangement. It seems to me that ought to be either in the third or the fifth year.

Mr. THURMAN. That is what I was going to ask. I had an amendment to propose, if you will permit me, that it shall end on the first Monday in January, in the year 1900. That fixes it beyond question, and that is what was intended here.

Mr. GOODWIN. It ought to be 1899 or 1901.

Mr. THURMAN. The question is, do you want the term to begin in the even years or odd years?

Mr. GOODWIN. Begin in the odd years. The elections are in the even years.

Mr. VARIAN. Mr. President, as I understand it, the officers-elect under this Constitution will not take possession of their offices until the Monday

following the issuance of the proclamation by the President, which may be in January, February, or March. We cannot tell when it will be. Now, the object of this amendment by Mr. Thurman is to provide for a possible inconsistency at the end of the term—of the four year term.

Mr. GOODWIN. Beg pardon, the object is to get the election in the even year.

Mr. VARIAN. Not at all. We are not dealing with that question now. We are dealing with the question of how these terms shall be regulated, and the first term, if we say, shall end on the first Monday in January and every fourth year thereafter—it ought to be corrected in some way so as to fix the date of the expiration of the first term. It ought to be on the first Monday in January, and the fourth year thereafter. That is the year of our Lord nineteen hundred, as I figure it.

Mr. THURMAN. Mr. President, the trouble I see in the matter is, a doubt would arise as to when the term would end? Now, it says, "in the fourth year thereafter." The question is whether you count 1896 or not. If you did, then it would end in 1899. I did not believe that that was what was intended by the bill. I thought it was intended to bring it out in the even year so that the governor's election would come at the same time as that of the President of the United States.

Mr. GOODWIN. If you would say the last day of December, 1899, that would be all right, but the first day of January, takes another year.

Mr. THURMAN. I understand. The only question is whether we want the governor to serve more than four years in order to bring it out to 1900. If his office should take effect early in 1896, he would serve over four years.

Mr. GOODWIN. If the election is on even years, the first governor must serve substantially either three or five years. Now, fix it either way. We

have got to have an election for congressman and Legislature a year from November, and the governor's term would naturally begin then, but we have got to have a governor in the meantime. Now, do you want that governor to serve three years, at the next election, or five years, until the next succeeding election?

Mr. SQUIRES. Mr. President, I was going to ask the same point that Judge Goodwin made. If this office expires in 1900, then the election would have to be held in odd years and would conflict with other portions of the Constitution, and the question is whether he should serve three or five years.

Mr. RICHARDS. Mr. President, it seems to me this should be made uniform, not only as to this officer, but to all of the other State officers, and as the gentlemen have suggested, it is a question how long the first term may be. The first term may be one year or three years or five years. But I do not see how we can make it any other than one, three, or five, and have the election on the even year. It seems to me the suggestion made by the delegate from Utah, if instead of making his motion 1900, he will say on the first Monday in January, 1901, that will cover the thing as I understand it, and give the governor a five-year term, the same as the others.

Mr. HART. Mr. President, if I understand the situation now, Mr. Thurman has moved an amendment inserting the year 1900. Now, I move as an amendment to that, that the year 1899 be inserted—giving him a three-year term.

Mr. THURMAN. Mr. President, I have one reason why I am opposed to that. I think we ought to elect the governor on the same day the President of the United States is elected, and have one red hot election every four years. If it takes 1901 to do that—I see that it does, I am in favor of that, although there might be some gentleman elected

that we would not want to hold five years, and then we might have a gentleman elected that we would like to have ten years if we could, but I am willing to take chances.

Mr. SQUIRES. Mr. President, I move as an amendment that we make the year 1901.

Mr. THURMAN. I will accept that as my motion.

The amendment of Mr. Hart was rejected.

The amendment of Mr. Squires was agreed to.

Mr. RICHARDS. Mr. President, I desire to offer an amendment in the seventh line. I move that the words, "who were," be stricken out. The reason for that is manifest. It speaks of an election that is to take place in the future as in the past tense.

The amendment was agreed to.

Mr. GOODWIN. Mr. President, I have an amendment, on the sixth line; after "January," add "or so soon thereafter as the proclamation announcing statehood shall be made."

Mr. VARIAN. That, Mr. President, is provided for in two lines further along, I think.

Mr. GOODWIN. I believe it is. I withdraw it.

Mr. GIBBS. Mr. President, I move to strike out "the first Monday in January," and insert in lieu thereof "the thirty-first day of December."

No second.

Sections 2 and 3 were read.

Mr. RICHARDS. Mr. President, I desire to call attention to the fact that under this section there will be no person eligible to elect as attorney general at the first election, for the reason that it requires a person in order to be eligible, to be 25 years of age, at the time of his election, and to have been admitted to practice in the supreme court of the State of Utah.

Mr. VARIAN. Mr. President, I was just going to make a motion on that, to insert after the word "the," in the

fourth line of page 19, before the word "State," the words "Territory or of the."

The amendment was agreed to.

Sections 4, 5, and 6 were read.

Mr. RICHARDS. Mr. President, at the request of Mr. Whitney, a member of the committee on revision, I move the following amendments: That the words "have been," in line 4, be stricken out, and the words "is to be" inserted in lieu thereof.

The amendment was agreed to.

Mr. RICHARDS. I also, Mr. President, move to strike out the word "they," in the same line, and insert the word "it," and strike out the word "they," at the end of the fifth line, and insert the word "it." This is also a suggestion of Mr. Whitney. Strike out the word "were" and insert the word "was."

Mr. VARIAN. I would like to ask the gentleman if the grammatical construction is deemed by Mr. Whitney to be wrong. I understand that the use of the word in that way is proper in either the plural or singular.

Mr. RICHARDS. I understand that either is correct, the plural or singular.

Mr. VARIAN. This will involve the correction of the entire section. It seems to have passed the committee. They did not report any change in it, and I understood when this matter was under discussion before, Mr. Richards took the same view that it was hardly worth while.

Mr. RICHARDS. Mr. Whitney could not be present this afternoon and he requested me to propose these amendments.

The amendments were agreed to.

Section 7 was read.

Mr. VAN HORNE. Mr. President, I move the insertion of the word "that," after the word "provided."

Mr. CRANE. I will say that "that" was in there, I think, in the original copy and it was stricken out. It was considered unnecessary.

The amendment was rejected.

Mr. RICHARDS. Mr. President, referring back to section 6, my attention has been called to the fact that we have the verb there in the past tense, when it should be in the present—the word "was" I think should be "is," in line with the amendment that was made in the fourth line.

The amendment was rejected.

Mr. GOODWIN. Mr. President, it does not amount to much, but it seems to me that the word "is," in the third line from the bottom of section 7, ought to be "be."

The amendment was agreed to.

Mr. THURMAN. Mr. President, I would like to go back now to the year 1901. [Laughter.] I mean 1901 herein or therein, whichever is right. I move to strike out the words "in the year."

The amendment was agreed to.

Mr. SQUIRES. Mr. President, I move we now resolve ourselves into committee of the whole to finish up the calendar.

Mr. ROBERTS. Mr. Chairman, I would ask if this matter goes into the hands of the engrossing committee from this body, without any motion, or does it require a motion?

Mr. HART. Mr. President, it is not clear as to whether we can refer this matter without a motion to the committee on engrossment and enrollment. I therefore move you that we refer articles from 1 to 6, respectively, and also the first seven sections of Article VII to the committee on engrossment and enrollment.

Mr. RICHARDS. I ask the gentleman to confine his motion to the first six articles.

Mr. HART. I will agree to that.

The motion was agreed to.

Mr. VAN HORNE. Mr. President, according to notice given, I move to reconsider the vote by which section 2 of the article on schedule was passed by this Convention.

Mr. SQUIRES. Mr. President, a few

days ago we had a similar proposition up here, and it was decided by the Convention that the only motion in order would be to move a reconsideration of the vote by which the article was passed, and bring the article back.

Mr. VAN HORNE. I make the motion in that way.

Mr. IVINS. Mr. President, I must rise to a point of order. There was a motion to go into the committee of the whole, before the motion of Mr. Van Horne was made.

The PRESIDENT. That is correct.

Mr. THURMAN. I ask the unanimous consent to withhold that for a moment. At the suggestion of a good many gentlemen on this floor, I want to call attention to section 9 of the article on elections and rights of suffrage.

The section reads, "All general elections shall be held on the Tuesday next following the first Monday in November of the year in which the election is held," and my attention has been called to the fact that it will be impossible for the Legislature, under that section, to fix a different time for school and municipal elections. At the time that we made the amendment, or that I made the motion that carried, it did not strike me that that would be the effect. Now, I have reason to believe that the great majority of the Convention would like that to be changed so that the Legislature could deal with it, either have it on the same day or a different day, and with that end in view, I move that the section be amended to read, "all general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held." Then it reads the same down to where the words are struck out again, and I wish to insert "municipal and school officers may be elected at such time as may be provided by law." The Legislature can put it on the same day or a different day.

Mr. SQUIRES. I call attention to the fact that this will require a suspension of the rules.

Mr. THURMAN. Yes, sir. In fact, if I had not thought it was pretty generally wanted, I should not have urged it.

Mr. SNOW. I would ask the gentleman, does he want to suspend the rules for this special occasion, or as a general thing?

Mr. THURMAN. Not as a general thing, by any means. I move that the rules be suspended in order to pass this amendment.

Mr. RICHARDS. Mr. President, it seems to me if we are going to change this section, we ought to leave the matter to the Legislature, and instead of making the amendment that is proposed, I offer as an amendment that we add after the word "held," in the fifth line, the words "unless otherwise provided by law," so that the Legislature may not only change the matter with reference to the municipal elections but with reference to the other.

The motion to suspend the rules was agreed to.

The amendment was agreed to.

Mr. VAN HORNE. Mr. President, I now move a reconsideration of the vote by which the schedule was adopted, for the purpose of considering section 2 of that article.

Mr. VARIAN. Mr. President, I want to get the notice that was given there. As I understood it, Mr. Van Horne gave notice that he would move to reconsider the vote by which a certain section was carried. He went away and before he returned, or at least on that or the next day, the article was passed on its third reading, and there was no notice given to move to reconsider the vote by which the article was passed on its third reading. My point of order is that no motion to reconsider that vote was made, and the whole article passed its third reading. The gentleman did not give any notice of a mo-

tion to reconsider, and did not vote for the article at all.

The point of order was sustained.

Mr. VAN HORNE. I appeal from the decision of the chair.

Mr. SQUIRES. Mr. President, before we can vote intelligently on the appeal we want to know what the record says. The journal shows that Mr. Van Horne was not present at the final passage of the article.

Mr. VARIAN. Mr. President, the subject matter of the section that was being considered was the addition of the words at the end of the section; adopting the act of 1892, and it was upon that that Mr. Van Horne gave notice that he would move to reconsider the vote whereby section 2 of the article on schedule was adopted, and that ended it, until the entire article was passed, and as I stated, he did not vote on that, and under the rule is not entitled to move to reconsider the article.

The decision of the chair was sustained.

Mr. MALONEY. Mr. President, in numbering the sections of the Constitution, they ought to be numbered from 1 up regularly all the way through, so that when you want to cite the Constitution, you do not have to cite the article and the section, but simply the section. When you open the book or pamphlet containing the Constitution, in looking for a section you will know whether it is behind you or before you, and it is much more readily found. Some of the constitutions are numbered that way, and it is a very great convenience. I therefore move that the committee having this matter in charge be instructed to number the sections from 1 consecutively all the way through.

Mr. ROBERTS. Mr. President, I think that the engrossing clerk has been engaged in his work now, and since it requires that there be no erasures or interlineations, or anything of that kind, he might have got so far that this would interfere with the work that he

has done, and I can hardly think that it is a matter of such importance as to change.

Mr. EICHNOR. Mr. President, I hope this motion will not prevail. I believe there are only two states in the United States that follow that idea—Louisiana and Georgia are numbered similar to the motion of Mr. Maloney.

Mr. MALONEY. The gentleman is mistaken. The whole constitution of Kentucky is numbered that way, so is Louisiana and some of the other states, I think, but I am not sure. You can much more easily find what you are looking for. It is either before you or behind you; you do not then have to cite the number of the article, but simply the number of the section.

Mr. CREER. Mr. President, I understand that the enrolling clerk has got considerable enrolled already. It may require his commencing all over again.

Mr. GOODWIN. Mr. President, that would be remedied by double sections; have each article numbered and the section of that, and then the section as numbered from the first.

The motion of Mr. Maloney was rejected.

On motion, the Convention then resolved itself into committee of the whole, with Mr. Eichnor in the chair.

Mr. CANNON. Mr. Chairman, I have a section which I desire to present as an additional section to the article on miscellaneous.

Mr. BOWDLE. Mr. Chairman, if I remember correctly, the chair was just about to decide a point of order that was pending before the committee.

The CHAIRMAN. That is correct. Mr. Thoreson made a point of order that section 1, as proposed by Mr. Murdock, of Beaver, had been considered by both the committee and the Convention.

Mr. MURDOCK (Beaver). Mr. Chairman, I wish to rise to a personal privilege on this floor. I desire to make the statement, in regard to the position

that I take in this matter. I think that my idea of putting these questions forward was not for the purpose of crowding anything upon this body before me, but simply to get, if I could, something in the interest of the first section. My object of bringing this forward was not to put anything upon this body, that would be absorbing their time unnecessarily, but I had been interrogated by several members that they thought the matter disposed of very hastily, and for that reason I thought under the article of miscellaneous, that probably it would come in very properly. I have introduced four sections, and three of them are upon different interests, and I would like the body, if they cannot accept the other, that is, the first two sections, because they have been produced here, why, I desire to have them consider the other sections, and if there is any merit in either of them to do so. If not, I shall take no offense. I supposed the first two sections would be met with some favor, from the fact that it was accepted when it was thoroughly understood—was accepted very favorably by the committee, and for that reason, I desire to get the feeling and the sympathy of the committee upon this question, and see if there could not be something done, and for that purpose, perhaps, as that is regarded out of the regular order, I would substitute a new section, or two new sections, in regard to the water, but it will be left, of course, with you. Now, I wish you to understand my motive is simply to have this before this body, and if there is any virtue in either one of the sections, I wish them considered, if not, I shall take no offense, but I supposed they would be received with more favor, from the fact that individuals had intimated to me that the water question was dealt with very hastily, and with all due respect to you, gentlemen, perhaps it is out of the general order to so present a matter, but I have done so

with a good purpose, to see if there could be nothing done. I have two sections that would be a substitute, if it would be received with any more favor.

The point of order was sustained.

Section 2 was read.

Mr. SNOW. Mr. Chairman, I rise to a point of order.

That section was stricken out in the committee of the whole, and also in the Convention.

Mr. THURMAN. Mr. Chairman, I rise to a point of order, that this cannot be considered in committee of the whole. It cannot be introduced here. We cannot take anything here that is not referred to us from the Convention. I am not now opposing the principle of this, but I am opposing the manner in which it is being done.

The point of order was sustained.

Mr. ROBERTS. Mr. Chairman, I move that the committee arise and report the article on schedule.

Mr. Cannon offered the following section:

No county shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatever.

Mr. ROBERTS. Mr. Chairman, I raise the point of order on that, that it is new matter and cannot be considered by the committee, unless referred to it from the Convention. It has not passed through the hands of the Convention, and therefore, it is out of order.

Mr. CREER. I raise the further point of order that it should be referred to the committee on printing and that we should have a printed copy.

Mr. SQUIRES. I suggest to Mr. Roberts that we might save time by considering this matter now.

The point of order was sustained.

On motion, the committee then rose and reported as follows:

Mr. President, your committee of the

whole have had under consideration the article on miscellaneous and recommend that it be placed on its final passage for third reading.

Mr. HART. Mr. President, I move we suspend the rules and take up the third reading of that article entitled miscellaneous.

The motion was agreed to.

Section 1 was read.

Mr. CHIDESTER. Mr. President, I offer an amendment to section 1, by striking out the word "five," in the fourth line and inserting the word "one." I believe the whole section ought to be stricken out. As I understand it, this exempts personal property to the amount of five hundred dollars to an unmarried person, and I think it is altogether too much. I believe if this Convention will consider this, that they will see that if it will exempt personal property to that class of persons, it is going too far, and then I believe it will do away with the present law that we have in relation to liens of landlords and hotel keepers. The present law, as I understand it, gives the hotel keepers a lien on personal property for the hotel bills. I think this will do away with that, and I think it is exempting too much, that unmarried persons should not have exempted five hundred dollars in personal property, because it would defeat the ends of justice by doing so.

Mr. THORESON. Mr. President, I trust that this motion will not prevail. In our day and age, in order that a young man might get married, he has to have a start in the world, and one hundred dollars is not enough, he cannot get a living. Now, to marry him, with only one hundred dollars backing him, is not enough, and I am in favor of leaving five hundred dollars, as a stake for single men, and married men also.

MR. MALONEY. Mr. President, I trust that will not prevail. Five hundred dollars is enough. Now, as to the lien of hotel keepers, that is not endan-

gered at all. There is nothing in this suggestion that the gentleman makes, and I trust the section will pass as it is.

Mr. BOYER. Mr. President, I would offer as an amendment to the amendment, to strike out the word "one" and insert "three." I, too, am of the opinion that five hundred dollars is altogether too much. I believe that three will be nearer right.

The amendment of Mr. Boyer was rejected.

The amendment of Mr. Chidester was rejected.

Mr. MALONEY. Mr. President, I move to strike out the word "miscellaneous," and insert "homesteads and exemptions," as the caption of this article.

The motion was agreed to.

Mr. IVINS. Mr. President, I have an amendment that I wish to offer to section 1. It is to insert after "date," in line 7, and before "contracted" the words "except taxes due and owing." My purpose is this: It may be that that would be construed to not apply to debts that are due for taxes that have been levied. It sometimes transpires that men have only personal property in the county at the time the assessment is made. That may be removed, and at the time that the collection becomes necessary, the debtor has nothing that the assessor can seize and sell. He is then required under the law to make settlement of that tax himself, and his only recourse against the debt then becomes the collection of that debt as any other personal account. Now, the question I want to determine is as to whether or not he ought not to be authorized to seize any property of the debtor for taxes that have been levied and are due and owing. Some of the constitutions contain the provisions as I have offered it; others do not have it. To remove the doubt, I thought that I would like to have it inserted.

Mr. MALONEY. Mr. President, there is no necessity for the amendment.

There is nothing exempt from taxation in this State or anywhere else, as far as that is concerned. It is copied from the Michigan constitution. That is construed there not to exempt from taxes or assessments, or purchase money, for that matter.

Mr. IVINS. Mr. President, under existing territorial statutes, after the time has expired for the collection of taxes—I do not remember the date—the assessor no longer has any lien upon the property. It becomes a personal debt that he owes. He is obliged to settle with the Territory, and he can only collect that from the debtor through a civil suit. When it becomes necessary to plant a civil suit for the collection of taxes, I do not want his property exempted, as I apprehend it would be under this section.

Mr. MALONEY. I think not.

The amendment was agreed to.

Mr. CREER. Mr. President, I move to strike out "five" and insert "four."

The motion was agreed to.

Mr. CHIDESTER. Mr. President, I offer an amendment to section 1, by placing at the beginning of the section these words, "until otherwise provided by law."

As this has passed so far, the Legislature cannot change it. The Legislature has never seen fit to pass such a law as this, and we are passing a section, in my judgment, that would be detrimental to the interests of the people. I do not think that a young man should be shielded in that kind of a way. I think it is wrong. I think it is wrong for us to make that kind of a law in the Constitution. It would be bad enough for the Legislature to do it when they can change it.

Mr. EVANS (Utah). Mr. President, I am opposed to the amendment, for the reason it would have the same effect as to strike out the section entirely. This is a restriction upon the Legislature, compelling them to at least exempt four hundred dollars; they can exempt more

if they so choose. But, if the amendment shall prevail, providing that it shall be so until otherwise provided by law, the Legislature at its first session may provide by law that only one hundred dollars may be exempt, and it appears from the journal of this Convention that they have decided that they want at least four hundred dollars exempt from execution, and if this motion should prevail, then I am in favor of striking the whole thing out, but I had rather that it would remain just as it is.

The amendment was agreed to.

Mr. ROBERTS. Mr. President, I move that section 1 be stricken out.

The motion was agreed to.

Mr. CANNON. Mr. President, I notice that there are not many more men than a quorum voting, and I think that we should consider this matter carefully, and I move that we adjourn.

The motion was rejected.

Section 2 was read.

Mr. Eldredge offered the following substitute for section 2:

To all heads of families, there shall be an exemption in lands, and improvements thereon, consisting in value of not less than \$1,000, and if such head of family be married, a further sum of \$500 for the wife and \$250 for each minor child, which shall be exempt from forced sale on execution or any other final process from a court, for any debt contracted after the adoption of this Constitution. Such exemption shall not extend to any mortgage thereon, lawfully obtained, but such mortgage or other alienation of such land, by the owner thereof, if a married man, shall not be valid, without the signature of his wife to the same. But no property shall be exempt from tax sale.

Mr. VARIAN. Mr. President, it was only this morning that this Convention, sitting in committee of the whole, by an overwhelming majority, determined that it was the sense of the body that this matter should be left to the Legislature, and incorporated in lieu of these three sections that were stricken out, the provision which this section is now desired to replace. I hope there is no

need to go over the line of argument that we went over this morning. I hope neither this motion nor the motion to strike out will prevail. There certainly ought to be such a constitutional limitation.

Mr. ROBERTS. I would like to ask a question. Your reference to striking out of the section does not refer to the section that was passed by the committee?

Mr. VARIAN. Yes; there is a motion pending to strike out.

Mr. ROBERTS. Did I understand you to be in favor of striking out the section that was passed through the committee?

Mr. VARIAN. No; I hope neither motion will prevail, and let it stand as it came from the committee. We have passed upon this question within three hours.

Mr. BOWDLE. Mr. President, we passed upon this subject this morning, but I do not believe it was fully understood. The substitute, if I understand the nature of it, does not reach the point that the gentlemen argued should be covered, if anything at all was done in this regard; that was where a person living in a town, upon a piece of property, and had other property outside, the piece of property in the town was not of the value as expressed in the substitute, so that he might add to that what he had outside and make it of the value of fifteen hundred dollars, or whatever the amount might be. Now, this substitute does not cover that case. He says that he shall have a homestead of the value of fifteen hundred dollars, or not to exceed that. Now, what is a homestead? A homestead is where the person lives, and he could not go outside, if it is defined as a homestead, and add to that. It would be whatever he occupied. It would be a piece of land in the city or town, or whatever it might be. That is his homestead. There is where his home is, and he cannot add to it. Now, the idea

this morning was, so that in a case like that he should have, in addition to his little home in the town, or wherever he might live, property outside.

Mr. HART. I call your attention to the fact that our present statute gives an exemption of a homestead consisting of a certain value; it does not require them to be together at all.

Mr. BOWDLE. I am not talking about the present statute. I am talking about the language of that substitute, that it does not cover the point that was intended, as I understood the discussion this morning.

Mr. SQUIRES. To which substitute do you refer?

Mr. BOWDLE. I refer to the substitute of Mr. Varian that was adopted this morning. That does not cover the point sought.

Mr. VARIAN. I will ask the gentleman if he understands that in that substitute that was adopted this morning, the underlying principle was to leave it to the Legislature and not enter into details?

Mr. BOWDLE. I submit that it does not cover that point.

Mr. CREER. Mr. President, I am in favor of the substitute as it came from the committee. I think it makes it secure that there shall be a homestead at least of the value of fifteen hundred dollars. Now, it seems to me it would be better to leave it to the detail as to how that must be selected, and I hope that this will not be stricken out, because it is in conformity with the provision made in most of other constitutions. The Legislature can adjust this, either to conform our present law or change it in any manner they see fit. I am certainly in favor of the substitute as it came from the committee this morning.

Mr. THORESON. Mr. President, it seems to me, after we have left out the first section, which was definite in its provision and left that subject to the Legislature, and under our present law

there are better and more liberal sections than provided in the substitute of the gentleman from Salt Lake, let us leave the entire matter with the Legislature and let them provide an exemption law.

On motion of Mr. Snow, the previous question was ordered.

The substitute of Mr. Eldredge was rejected.

The motion to strike out section 2 was rejected.

Section 5 was read.

Mr. JAMES. Mr. President, I feel a little timid in arising here, to ask this Convention to adopt another section, but I shall, however, make the effort. The matter that I am going to ask this Convention to adopt has been before it three times and voted down, but not in the form that I shall put it now. When it came up in the bill of rights, it came up in the form that allowed men to enter upon other property and it should be declared as a public use. I offer the following section:

The necessary right of way for tunnels, flumes, pipe lines, roads, and ditches [laughter], as a means to the development of the mineral and agricultural resources of the State, is hereby declared a public use and subject to the control and regulation of the State.

Mr. VARIAN. Mr. President, I arise to a point of order, that not only once, but three or four or half a dozen times, that matter has been voted down in this Convention and cannot be reintroduced now under our rules.

The point of order was sustained.

Mr. GIBBS. Mr. President, I move to strike out section 5.

No second.

Mr. Cannon offered the following new section:

No county shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation of such taxes be authorized in any form whatever.

Mr. CANNON. Mr. President, the

Convention, I hope, will not think this something that was introduced a number of times, because this is the first time, I think, that it has been introduced, and I hoped that it would go through while Mr. Eichnor was in the chair, because it was taken from Washington. The provision is one that I think should be placed somewhere in our Constitution.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. We are considering another subject here entirely. We have a matter that has been passed upon relative to taxes, and I think the proper thing to do would be to consider that question by a suspension of the rules, and it ought not to be permitted to be entertained with this subject.

The PRESIDENT. I think the point of order is not well taken.

Mr. HART. Mr. President, I arise to the further point of order that it is not germane to the article now under consideration, which is homestead and exemption.

The PRESIDENT. That is well taken.

Mr. RICHARDS. I just want to call the attention of the Convention to the fact that it seems to me we made a mistake in changing the title of this article from miscellaneous to homesteads and exemptions. The last section relates to the property rights of women, and I think the title should be miscellaneous, or it should be expressed by the objects. I move to reconsider the vote.

The motion was agreed to.

Mr. CANNON. As I understand it, Mr. President, the title now remains as it was, and I can introduce my section.

Mr. VARIAN. I want to call the attention of the Convention to the fact that the motion is to change the title from miscellaneous to homesteads and exemptions.

Mr. EVANS (Utah). Mr. President, I move to amend the motion by adding "and real estate titles."

No second.

The original motion was rejected.

Mr. EVANS (Utah). Mr. President, I move the previous question.

Mr. GIBBS. Mr. President, I had a motion to strike out section 5. It was seconded and never was put before the house.

The motion was put and rejected.

Mr. EVANS (Utah). Mr. President, I move the previous question.

The motion was agreed to.

The PRESIDENT. The question is now on the adoption of the article.

Roll call on the adoption of the proposed article, miscellaneous, as amended, resulted as follows:

AYES—58.

Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Lund
Brandley	Maeser
Button	Maughan
Call	Morris
Cannon	Murdock, Beaver
Chidester	Murdock, Summit
Christianson	Partridge
Clark	Peters
Coray	Peterson, Grand
Creer	Peterson, Sanpete
Cunningham	Richards
Eichnor	Roberts
Eldredge	Robinson, Kane
Emery	Robison, Wayne
Engberg	Ryan
Evans, Utah	Sharp
Farr	Shurtliff
Gibbs	Snow
Hart	Spencer
Halliday	Squires
Hughes	Stover
Ivins	Symons
James	Thompson
Johnson	Thorne
Larsen, L.	Varian.

NOES—5.

Kerr	Thoreson
Maloney	Thurman.
Page	

ABSENT—43.

Adams	Lambert
Buys	Lewis
Corfman	Low, Cache
Crane	Mackintosh
Cushing	McFarland
Driver	Miller
Evans, Weber	Moritz
Francis	Murdock, Wasatch
Goodwin	Nebeker
Green	Pierce
Hammond	Preston
Haynes	Raleigh
Heybourne	Ricks
Hill	Robertson
Howard	Strevell
Hyde	Thatcher
Jolley	Van Horne
Kiesel	Warrum
Keith	Wells
Kearns	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

Mr. Cannon, Mr. Bowdle and Mr. Gibbs gave notice they would move to reconsider the proposed article, miscellaneous.

During the roll call the following remarks were made:

Mr. BOWDLE. I shall vote aye for the article and I give notice that I shall make a motion to reconsider.

Mr. CANNON. I vote aye, with the understanding that I will move to reconsider.

Mr. GIBBS. I vote aye, but I give notice that I will move to reconsider.

Mr. HART. Mr. President, I rise to a point of order. You cannot give notice to reconsider until after the result is announced. How can we know how the vote will go until after the vote is announced?

Mr. JAMES. I vote aye, with the understanding that I get my mining article in. [Laughter.]

Mr. MALONEY. I desire to be excused from voting on this. A banker writes an impudent letter to this Con-

vention and the Convention follows his dictation. I do not care to vote on it.

Mr. THURMAN. I would like to be excused. I am directly interested in the question.

Mr. CHIDESTER. I object to Mr. Maloney being excused.

Mr. EVANS (Utah). I object to Mr. Thurman being excused, either.

Mr. THURMAN. I vote no.

Mr. MALONEY. I vote no.

The president declared the article adopted and referred to the committee on compilation and arrangement.

Mr. VARIAN. Mr. President, I move now to reconsider the vote by which this was carried. I do it for the purpose of speeding the business of this Convention. We can vote this motion down and that will let it go right into the hands of the committee to-night.

The motion was rejected.

Mr. LUND. Mr. President, I move a suspension of the rules, and that we adjourn until 10 o'clock to-morrow.

The motion was agreed to, and the Convention then, at 5:30 p. m., adjourned.

SIXTY-FIRST DAY.

FRIDAY, May 3, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Preston.

Journal of the sixtieth day's session was read and approved.

The president appointed, as a committee to prepare an address to be submitted with the Constitution to the people of the Territory, the following delegates: Messrs. Goodwin, Whitney, Crane, Thurman, Wells, Kerr, and Brandley.

The PRESIDENT. The business in hand, I believe, is the reading of the Constitution now.

Section 8 of Article VII was read.

Mr. RICHARDS. Mr. President, I move that the first word in the last line "hereinbefore," be stricken out. It is, needless and meaningless.

The motion was agreed to.

Sections 9, 10, and 11 were read.

Mr. WHITNEY. Mr. President, I suggest an amendment in line 8, striking out of the word "the" where it occurs before the word "governor."

The amendment was agreed to.

Mr. RICHARDS. Mr. President, I move to strike out the word "and," in line 18, of section 11.

The motion was agreed to.

Mr. CRANE. Mr. President, I think the word "and" should not be stricken out. I move to reconsider that.

Mr. RICHARDS. Mr. President, I desire to state why I made the motion. It seems to me that it is not necessary in this Constitution that we should require the governor or the secretary of state to receive the salary. It is necessary that we should declare that he shall be entitled to it, and we do declare that he shall be entitled to it, but when we insert the word "and," we then not only say that he shall be entitled to it, but that he shall receive it.

Mr. CRANE. I fail to see the point of that argument.

Mr. HAYNES. Mr. President, I move to strike out the word "receive." If the secretary of state is entitled to the salary, he will come pretty nearly receiving it.

Mr. HILL. Wouldn't you prefer that he did not receive the salary?

Mr. HAYNES. No; I would prefer that he get it.

Mr. CHIDESTER. I arise to a point of order, that that is a material amendment and cannot be introduced.

The PRESIDENT. It is not very material.

Mr. CRANE. I trust, Mr. President, that these words will not be stricken out. It seems to me to make very good sense now, the way it reads, and I

presume that no gentleman here will presume for a moment to suppose that the secretary or the governor will not receive his salary if he is entitled to it.

Mr. SQUIRES. I just want to remind the Convention of the fact that the words as they appear in the printed copy are exactly as the Convention adopted them. There has been no changing by the committee.

The motion to reconsider was rejected.

Mr. HAYNES. Now, I renew my motion to strike out the word "receive."

Mr. CHIDESTER. That is out of order. That is an amendment to the section as it reads.

The point of order was overruled.

Mr. CANNON. Mr. President, I am in favor of striking this out, because I believe the meaning to be the same, and it is a little smaller.

Mr. CRANE. Mr. President, I think myself, as we have stricken out the word "and," that "receive" should also be stricken out, to make good sense.

Mr. WHITNEY. Mr. President, I think I should favor that motion, striking out the word "receive."

The amendment of Mr. Haynes was agreed to.

Sections 12 and 13 was read.

Mr. RICHARDS. It seems to me that ought to be "those for." I therefore move that the words "those for" be substituted for "those of."

Mr. HART. Why wouldn't the word "for" be sufficient, instead of the words "those of?"

Mr. RICHARDS. I accept the amendment.

The amendment was agreed to.

Sections 14, 15, 16, 17, 18, 19, and 20 were read.

Mr. JOLLEY. Mr. President, I move that we suspend the rules and raise the salary of the governor from two thousand dollars per annum to twenty-five hundred dollars per annum.

The question being taken on the motion to suspend the rules, the Conven-

tion divided, and by a vote of 43 ayes to 34 noes, the motion was rejected.

Mr. SQUIRES. Mr. President, I move that the comma, after the word officers, in the 8th line from the bottom, on page 25, be stricken out.

The motion was rejected.

Mr. WHITNEY. Mr. President, I move to insert the word "in" after the word "and," in line 3, section 20.

The amendment was agreed to.

Mr. WHITNEY. I move, in the same line, to strike out the words "in pursuance of," and insert the words, "pursuant to."

The amendment was agreed to.

Sections 21, 22, and 23 were read.

Mr. RICHARDS. Mr. President, I move that the word "specific," in the last line of section 19, be stricken out.

Mr. EICHNOR. Mr. President, I am opposed to that motion to strike out. The idea of this section is that no other duty except educational duties shall be placed upon the superintendent of public instruction.

Mr. RICHARDS. I would ask Mr. Eichnor what difference there is in the meaning of this section by the insertion of the word "specific" or leaving it out?

Mr. EICHNOR. I think the word "specific" would limit the duties that might be placed upon him.

The motion was agreed to.

Mr. HAMMOND. Mr. President, I move to strike out the word "but," in the last line on page 25.

The motion was rejected.

Mr. PAGE. Mr. President, I move to strike out the word "shall," in the second line from the bottom of section 16.

The motion was rejected.

Mr. WHITNEY. Mr. President, I move the reconsideration of the vote on the motion put by the gentleman from San Juan.

The word "but" occurs in the fourth line from the bottom, on page 25, and I

think if we should close the sentence with a period, and strike out the word "but," as he suggests, it would read better. Strike out the word "but," and begin the sentence with the words, "the Legislature."

The motion was agreed to.

The amendment was agreed to.

Mr. CORAY. Mr. President, I move that the word "prescribe," in section 17, the last line, be stricken out, and insert the word "provided."

The motion was agreed to.

Article VIII, judicial department, was then taken up for consideration.

Sections 1 and 2 were read.

Mr. HART. Mr. President, on page 27, third line from the top, I move to strike out the word "make," and insert in lieu thereof the word "form."

The question being taken on the amendment, the Convention divided, and by a vote of 31 ayes to 16 noes, the motion was agreed to.

Mr. SQUIRES. Mr. President, I move a reconsideration of the vote by which the word "make" was changed to "form."

The question being taken on the motion to reconsider, the Convention divided, and by a vote of 30 ayes to 21 noes, the motion was agreed to.

Mr. HART. Mr. President, as I understand it, my motion is now before the house. This correction is very largely a matter of taste. It seems to me that the word "form" makes the sentence altogether smoother and is much preferable to the word "make."

Mr. SQUIRES. Mr. President, I made that motion in order to give Mr. Whitney an opportunity to debate that subject.

Mr. WHITNEY. Mr. President, I have no speech to make on the subject. I think probably the gentleman is right, that probably the word "form" is a little more elegant than "make." I had just as lief vote for it as not.

Mr. SQUIRES. Mr. President, I

apologize; it is a case of misplaced confidence.

The amendment of Mr. Hart was agreed to.

Mr. CRANE. Mr. President, I move to strike out the word "pronounce," in the third line, page 27, and insert the word "render" in lieu thereof.

The amendment was agreed to.

Sections 3 and 4 were read.

Mr. CORAY. Mr. President, I ask that the foreign phrase be stricken out of this section, and good plain English substituted.

Mr. HART. I ask the gentleman to suggest the good plain English to be substituted for these words.

Section 5 was read.

Mr. RICHARDS. Mr. President, I move to transpose the words "who must be a member of the bar," from the third and fourth lines from the close of the paragraph, and have them come in after the word "record," in the second line.

Mr. WHITNEY. I asked the gentleman if that would not produce ambiguity? "And who" would then refer to attorneys of record, instead of judge pro tempore.

Mr. RICHARDS. That may be so; the amendment proposed was proposed very hastily, of course.

The PRESIDENT. Do you withdraw it?

Mr. RICHARDS. Yes.

Mr. WHITNEY. Mr. President, in line 8 of section 5, I would suggest the striking out of the word "the," before district court, and a substitution of the word "a" in lieu thereof.

The motion was agreed to.

Mr. LAMBERT. Mr. President, in line 10 of section 5, I move to insert the words "Territory or" before the word "State," and the words "of Utah" after the word "State."

The amendment was agreed to.

Mr. THURMAN. Mr. President, the last line of section 5 seems to me to be slightly ambiguous as it is. "Any

cause in the district court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon by the parties or their attorneys of record, who shall be sworn to try the cause." The question is, what does "who" refer to? It is intended to refer to the judge pro tempore, but in fact, it refers to attorneys of record.

Mr. SQUIRES. I suggest that we might transpose that so as to put, "who shall be sworn to try the cause" after the words "pro tempore," and strike out the words "who shall be."

The amendment was agreed to.

Mr. CRANE. Mr. President, then I move to transpose those words, and make it "Territory or State of Utah."

The amendment was agreed to.

Mr. HART. Mr. President, I move to insert, after the word "years," in the same line, the words, "next preceding his election."

The amendment was agreed to.

Mr. WHITNEY. Mr. President, I supported the amendment offered by Mr. Squires to the last sentence of that section. I now move a reconsideration of that vote, and to strike out all after the word record, in the last line but one of section 5, and insert after the word "bar," in line 17, the words, "sworn to try the cause."

The motion to reconsider was agreed to.

The amendment was agreed to.

The Convention then took a recess until 2 o'clock.

AFTERNOON SESSION.

The Convention re-assembled at 2 o'clock p. m., President Smith in the chair.

The consideration of Article VII was resumed.

Sections 6, 7, 8, 9, 10, 11, 12, 13, and 14 were read.

Mr. SQUIRES. Mr. President, I move that the word "prescribed," in the last line of section 14, be stricken out, and the

word "provided" be inserted in lieu thereof.

The amendment was agreed to.

Sections 15 and 16 were read.

Mr. SQUIRES. Mr. President, I move that the word "courts," in the second line in this section, be stricken out and the word "districts" be inserted.

The amendment was agreed to.

Sections 17, 18, and 19 were read.

Section 20 was read.

Mr. BOYER. Mr. President, I move that the rules be suspended for the purpose of reconsidering section 20 of this article, and offer as an amendment to section 20, that the words "three thousand," in third line, be stricken out, and the words "twenty-seven hundred" be inserted in lieu thereof.

Mr. GOODWIN. Mr. President, I hope the Convention will not accede to that. There is barely a quorum present. We went over that and decided it two or three times, and I hope that this section will not be altered now.

The motion was rejected.

Mr. SQUIRES. Mr. President, I move to insert the article "the" before the word "salaries," in line 1 of section 20.

The question being taken on the amendment, the Convention divided, and by a vote of 25 ayes to 18 noes, the motion was agreed to.

Mr. SQUIRES. Mr. President, Judge Goodwin, of the committee on compilation, suggests that there are too many articles in this Constitution now, so I move that we strike out the article "the" in the second line.

The amendment was agreed to.

Section 22, 23, 24, 25, and 26 were read.

Mr. GOODWIN. Mr. President, I wish the Convention would consider section 5 for a moment. When this article was drafted, the understanding was that the election for district judges and supreme judges would not be at the same time of the general election, and it will be seen in section 5 that the term of office of the district judges shall be

four years. Under this new arrangement by which the judges are elected at the same time as the State officers, it looks as though it would be necessary, if this remains as it is, for judges to be elected a year in advance, unless the terms of the first judges be changed, and I have prepared an amendment, which the Convention should consider for a moment, to come in after line 5, in section 5, to read as follows: Insert after the word years the following:

Except that the district judges elected at the first election shall serve until the first Monday in January, A. D. 1901, and until their successors shall have qualified.

The motion to suspend the rules was agreed to.

Mr. BUTTON. Would not it have been well, if that had read "serve until January, 1901," the same as the amendment we offered the other day?

Mr. BOWDLE. I want to ask Judge Goodwin a question on that. Will the election this fall be under this Constitution?

Mr. GOODWIN. I should say so. If the Constitution is not adopted, there will certainly be no election.

Mr. BOWDLE. The question in my mind is whether that election will be under this Constitution or under that provision in the Enabling Act? If it is under the Enabling Act it might raise a question as to whether it would—

Mr. SQUIRES. We can amend that by saying the district judges elected in 1895.

Mr. BOWDLE. That would cover it.

Mr. HART. I would ask the mover of this amendment whether there would be any difficulty about when the term of office would expire under this amendment? That is, supposing that the State were not admitted until February or March, whether they would have to serve five years from the date of the admission, if it would not be better to fix the time when they would expire, the

same as we did the executive officers—name the date?

The amendment was agreed to.

Section 27 was read.

Mr. EICHNOR. Mr. President, I desire to offer an amendment to section 18, not an amendment that will change the sense in any way. I move to insert the word "the" before the word "State," in line 1 of section 18.

The amendment was agreed to.

Article X—Education, was then taken up.

Mr. CRANE. Mr. President, I desire to draw the attention of the Convention to the fact that almost the identical words that are used in section 1 of this article are used in the fourth clause of ordinance. It seems to me to be a section that could be eliminated from one or the other of these articles. It is a repetition. I would, therefore, ask that the rules be suspended in this instance and this fourth section of the article of ordinance be stricken out.

Mr. RICHARDS. Mr. President, I am opposed to that.

Mr. CRANE. I am informed by the judge that it cannot be stricken out of ordinance. Then, I would move that it be stricken out as section 1 of the article on education.

Mr. CHIDESTER. Mr. President, there is one objection to that, striking out section 1 in this article—this provides for a uniform system, and that I presume is what we want.

Mr. BOWDLE. Mr. President, I do not believe it ought to be stricken out of this article. While it may appear somewhere else in the Constitution, it is certainly very proper that it should appear in the article on education, and if there should be a little repetition, I would be in favor of keeping it in here.

Mr. RICHARDS. Mr. President, I think it would be a mistake to strike this out of the article. It cannot be stricken out of the ordinance, because the Enabling Act requires it to be there.

It is an irrevocable compact with the United States.

Mr. CRANE. Mr. President, I do not insist on this. I just wished to bring it before the Convention. I will withdraw the motion.

Mr. SQUIRES. Mr. President, I move to strike out the word "the," in line 3 of section 1.

The motion was agreed to.

Sections 2, 3, 4, 5, 6, 7, 8, and 9 were read.

Mr. MAESER. Mr. President, according to this, no provision at all is made for prescribing text books. According to this, it would be left to our school—to every teacher to get text books, as they please. It would throw us back in that time of confusion when every teacher and every school had their own text books, and changed it every quarter, perhaps two or three times a year. Some provision, it appears to me, ought to be made.

Mr. EVANS (Utah). This leaves it entirely in the hands of the Legislature. It simply fixes it so that the Legislature can prescribe.

Section 10 was read.

Mr. SQUIRES. Mr. President, I notice the word institutions in the fifth line is made in the plural. I think the intention was to transfer the property of the deaf and dumb asylum to the university, and that is the way we have it in the marked copies. I think that was the purpose and effect of the amendment. It was so stated here the other day, when we tried to change the deaf and dumb asylum.

Mr. EVANS (Utah). Mr. President, if I remember right, the Enabling Act provides grants for separate purposes. I am not sure, but that is my recollection of it now, and if that is the case, why, this would be proper.

Mr. HALLIDAY. I think you are correct.

Mr. IVINS. Mr. President, before we pass that section, I would like to ask some member of this committee to

which institution this property is to be transferred? I cannot tell whether it is to be transferred from the deaf and dumb and blind institute back to the university or from the university to those institutions.

Mr. SQUIRES. I think it is a little ambiguous, but I think the gentleman understands what the purpose was. The intention was to transfer all the property of the institutions to the university itself.

Mr. IVINS. Mr. President, I had just the other idea exactly. I thought it was to be transferred from the university to the institutions.

Mr. SQUIRES. Do you remember when the debate was had here about sending the deaf and dumb asylum to Ogden, that the deaf and dumb asylum was without a home because we had transferred its property to the University? That was one reason why it should go to Ogden, because it had no home, that the building should go to the university.

Mr. SNOW. Mr. President, if that was the argument that was made, it was a wrong argument and founded upon a false basis. The intention of the committee was to transfer the property that belonged to this deaf and dumb school to that institution, wherever it should be established.

Mr. IVINS. That was the idea exactly, not to transfer the buildings; the buildings belonged to the university.

Mr. SQUIRES. Mr. President, I move that the letter "s" be stricken off from that word "institution," in the fifth line, making it conform to the article as it was passed by the Convention.

Mr. CANNON. Mr. President, I think the gentleman who makes the motion is laboring under a misapprehension. I have the same understanding that Mr. Snow has expressed. Mr. Snow is a member of the committee on education, and it was spoken of on this floor at the time the bill came up. The idea was to convey the property which is

properly personal property to the institutions wherever they should go, and let it follow these institutions. The point was brought up that the building occupied by the deaf mutes was upon the university ground, consequently, that remained with the university, and the title is in the university, but the personal property was designed to go with the institutions wherever they might be located.

Mr. IVINS. I move then, Mr. President, to insert after "institutions," in line 5, the words "for the deaf, dumb, and blind."

Mr. CANNON. Mr. President, I arise to a point of order. The only way to do that would be to move to suspend the rules.

Mr. IVINS. It is understood that if this amendment is made it is under a suspension of the rules.

Mr. CANNON. The motion should be made in that form.

Mr. IVINS. I wish to say it is not necessary, every time an amendment is made to one of these sections, to first move that the rules be suspended, and then to see whether you can make the amendment or not. If the motion prevails, the rules are suspended and the amendment is adopted without the necessity of two motions.

Mr. HART. Mr. President, if the contention of Mr. Cannon and these other gentlemen is right, it would not require a suspension of the rules, because if the word is "institutions" there, I think by adding the words "for the deaf, dumb, and blind," we do not make any material change.

Mr. EVANS (Utah). Mr. President, the Enabling Act provides for the deaf and dumb asylum in one place a hundred thousand acres and then for the blind in another place.

Mr. CRANE. Mr. President, in the original section, it was "institutions."

Mr. GOODWIN. I would like to ask if there is any property in the university that belongs to the building?

The PRESIDENT. The remembrance of the chair is that there was considerable apparatus used.

Mr. GOODWIN. As I understand it, it was all for the deaf and dumb, and not the blind, and if the object is to transfer it to both institutions, that is all right. If the property there belongs to them, it ought to go to the deaf and dumb asylum. Does any one know whether there is any property there belonging to the blind or not?

Mr. SQUIRES. I suggest that if there is any property there that belongs to the school for the blind, then this sentence is very incomplete.

Mr. GOODWIN. Then it ought to read that it should go to the deaf and dumb asylum.

Mr. IVINS. Mr. President, I think Judge Goodwin is right about that; it should be as he states. There is no institution for the blind at present.

Mr. EVANS (Utah). Mr. President, I think the "s" ought to come off of "institutions," because it has reference to only one institution. That will cure the whole thing.

Mr. SQUIRES. Mr. President, I suggest that amendment be made as follows, so that the sentence will read, "all property belonging to the school for the deaf and dumb heretofore connected with the university of Utah shall be transferred to the institution for the deaf and dumb."

Mr. IVINS. Now, I think "said" ought to be there, because it refers to to the institution we refer to in the first line.

Mr. SQUIRES. All right, I will accept that.

The amendment was agreed to.

Sections 11, 12, and 13 were read.

Mr. WELLS. Mr. President, if it is in order, I move to strike out the word "all," in line 2 of section 13. I do not think it ought to be taught in the kindergartens. They are a part of the public school system of the State.

The motion was agreed to.

Article XI, counties, cities, and towns, was taken up.

Sections 1 and 2 were read.

Mr. CRANE. That is all, Mr. President, that we have now from the printer, but if the gentlemen will take up the article on apportionment as printed in the journal, or as you have it already printed in your copy of the article—

Mr. CANNON. Mr. President, in view of the fact that there are no changes in this, I think it would be a waste of time to read it over. I move that the rules be suspended, and that this be passed to the committee on engrossment, without reading.

Mr. SQUIRES. We have no way of knowing how many changes the committee made in this article.

Mr. CRANE. The committee has not made any changes, nor have they had it reprinted. The committee has had it before them. They have never considered it.

Mr. SQUIRES. Well, if they never considered it, it ought to be considered.

Mr. CANNON. Mr. President, I submit that if the committee have not considered it, it is not proper to present to us.

Mr. HAYNES. Mr. President, I would like to call the attention of the Convention to page 27, section 3, of the judicial article. It is not in my own interest, but I believe it needs a change. Every judge of the supreme court shall be at least thirty years of age, and before his election shall be a member of the bar. My idea is to strike out the word "before," and insert "at the time of his election."

Mr. GOODWIN. I would say for the information of Mr. Haynes, that that was all discussed and considered, and the idea was that no one should be nominated for that office, unless he was an actual practising lawyer in the Territory, and the idea was not to permit someone to go and get admitted to the

bar on election day in order to get the office. I think it is all right as it is.

Mr. HAYNES. I thought he might have been admitted to the bar at some time before and be disqualified, and he should be an active practising member of the bar.

The PRESIDENT. Would that amendment prohibit a judge who is now sitting upon the bench from being elected?

Mr. HAYNES. No; he is a member of the bar.

Mr. GOODWIN. The only difficulty about that is that he should be learned in the law.

Mr. HAYNES. Mr. President, just to test the sense of the Convention, I make a motion to that effect, that the word "before" be stricken out, and "at the time of" be inserted in lieu thereof.

Mr. SNOW. That will require a suspension of the rules?

The PRESIDENT. Do you move to suspend the rules?

Mr. HAYNES. I am not particular about it, if the Convention don't want to take it up.

Mr. GOODWIN. Mr. President, I move that the committee on compilation and arrangement be honorably discharged.

Mr. CRANE. I second the motion.

Mr. GOODWIN. The Convention has simply to resolve itself into that committee of the whole and it is simply unnecessary. I think it would be better to take up whatever matter may be presented, and consider it in committee of the whole.

Mr. JAMES. I amend the motion, Mr. President, that the Convention return the work to the committee and permit them to complete it.

Mr. HART. Mr. President, this motion really contemplates a suspension of one of our standing rules, the rule which provides for the various committees and their duties. Now, I do not see any more reason for abolishing this committee at this time than doing away with any other of our

standing committees. I think there can be no doubt in the minds of members of this Convention that the committee on revision have greatly assisted the Convention in this work.

The PRESIDENT. There is nothing before the house.

Mr. HART. I understood there was a motion.

The PRESIDENT. There was no second to it.

Mr. VARIAN. I would like to have the Convention consider section 19 of the executive article in connection with section 8 of the educational article. I called the attention of several gentlemen to an apparent inconsistency there, and am told now that you have passed both articles. Section 19 of the executive article provides that the superintendent of public instruction shall have general supervision of all matters pertaining to the public schools. Section 8 of the article on education provides that the general control and supervision of the public school system shall be vested in a state board of education. Now, one or the other ought to be changed so that it may be harmonious. Section 19 of the article on executive might be amended so as to read that the superintendent of public instruction shall perform such duties as may be provided by law—something of that kind.

Mr. EVANS (Utah). Could not we strike out section 19 of the executive article?

Mr. VARIAN. Yes; we might strike out section 19. That will accomplish the purpose.

Mr. GOODWIN. Has that article been sent to the engrossing clerk?

Mr. EICHNOR. Mr. President, I am opposed to striking out section 19.

Mr. WELLS. Mr. President, the engrossing clerk has just about reached that section.

Mr. VARIAN. Mr. President, I suggest to the gentlemen of the Convention, whether or not we might better

accomplish the purpose by just simply striking out section 19, after the word "shall," in the second line, and the word "perform," in the third line, and strike out the word "other," in line 4 of this section 10. If there is no objection I will withdraw the motion to strike out the section and make it in the form as indicated.

The PRESIDENT. The question is on the suspension of the rules.

The motion to suspend the rules was agreed to.

Mr. EICHNOR. Mr. President, I am opposed to this motion, and I will give my reasons for it. The state superintendent of public instruction is one of the officers of the executive department of this State. No doubt, it is intended to elect a responsible man. That man should have control of the public school system of this State. The attorney general is not tied up with a board, neither is the treasurer tied up with a board, neither is the auditor, neither is the governor, and this idea that is embodied in section 8 of the educational article is only found in a few states. In the states that have the best school system, they elect a responsible man, an intelligent man, and they place him at the head and he controls the public school system. The idea of tying up the superintendent of public instruction with a board—the people elect the superintendent of public instruction for that purpose, and I hope this motion won't prevail.

Mr. VARIAN. Mr. President, I made the motion in regard to the executive article. I assumed that it was the will of the Convention that the provisions of section 8 of the article on education stand. It was considered last. It is utterly immaterial to me, only you want to harmonize it, that is all.

Mr. CANNON. Mr. President, I am in favor of the motion to strike out the portion of section 19 mentioned, and believe that section 8 is all right. This

whole matter is left to the Legislature, and I am not afraid that they will interfere in any injurious way with the workings of the school system.

Mr. GOODWIN. Mr. President, there is another reason for it, if the superintendent of public instruction shall prove himself to be a thoroughly competent man, he will control that board. If he happens to be a stick, the board can control him. That was the idea of the Convention.

The amendment was agreed to.

Mr. VARIAN. I suggest, Mr. President, that that motion include "other" and "specific," in the fourth line.

Mr. Cannon was called to the chair in the absence of the president.

Mr. EVANS (Utah). Mr. President, I desire to offer the motion that we proceed to consider the apportionment article, for the reason, as I said before, that we have cleared everything away. It seems to me satisfactory to the committee on compilation and revision, and the object of that committee is to simplify these matters, and get them into the best shape before presenting here, and we then go over them all, and as we have got nothing else before us, I move that we take this matter up and proceed to its consideration.

Mr. SQUIRES. Mr. President, I would much prefer to let the committee on compilation make a report on that article first, and note such changes as they deem necessary; they can examine it more carefully and more consistently than we can in open Convention, and I understand the committee is now ready to go to work on that particular subject. I am not in favor of taking this up now before the committee on compilation has reported it. It is only by suspension of the rules it could be done.

Mr. HART. Mr. President, I think we should leave that to the committee, and let them report on it first. I am opposed to the motion.

Mr. EICHNOR. Mr. President, I am

in favor of taking it up, because they have got into such a habit here, that we pass an article when it is reported from the committee on compilation and arrangement; then we go back again; then the next day we go back and make an amendment. We might as well being doing that, as getting into this poor practice of amending day after day every article. I am in favor of taking it up right now.

Mr. SQUIRES. I call the gentleman's attention to the fact that to-day, in the reading of this report, we found that the committee have made a number of changes which nobody has questioned. It seemed to be all right, and they have changed even the original copy that we passed in the Convention, and there has been no objection raised, except in one or two cases, and they can do that business more carefully than we can here. A small committee can more easily do that kind of work, and I hope no demand will be made to take it out of their hands. I raise the point that it will require a two-thirds vote, because it will certainly be a suspension of the rules.

Mr. ALLEN. Did not the chairman state that they have looked it over, and found no mistakes?

Mr. SQUIRES. I asked the chairman of the committee the direct question, and he said no. They had it before them, and had not considered it.

Mr. LAMBERT. I think I can give Mr. Squires some light on that. We have had that report up before the committee, and we did consider it, and as there was only one word changed in the instrument when it came before the committee of the whole and the Convention, and that word was suggested by one of the committee on compilation and arrangement, which he withdrew in our committee, as he believed the original document was better than his suggestion, we agreed to make the report as it comes from the committee on legislative and apportionment our

report, and it is open here now for consideration.

Mr. EVANS (Utah). Then, I make the point of order, if that be the fact, it does not require two-thirds. It is before the Convention, and all we need to do is to proceed with it.

The PRESIDENT (pro tem). The point of order as made by the gentleman from Utah County, is in accordance with the statement of the chairman of the committee on compilation and arrangement. The chairman will rule that, under the circumstances, it would require only a majority vote to take up the article.

Mr. WILLIAMS. Mr. President, before that question is put, I would like to know if there is a quorum present?

Upon a count, the secretary announced fifty-four members present.

The question being taken on the motion to consider the article on apportionment, the motion was agreed to.

Mr. ALLEN. Mr. President, I move that the sergeant-at-arms be instructed to keep these delegates from running off.

The PRESIDENT. The sergeant-at-arms is instructed to arrest and bring in any fleeing member.

Mr. VARIAN. Mr. President, what is the point in this? Even if there should not be a quorum, if the point is not raised, it is all right. There is nothing of importance.

Mr. SQUIRES. Mr. President, I move that we head this article something; I move it be made Article IX.

Mr. GOODWIN. Mr. President, the arrangement will be submitted to the house in the morning, and it is liable to be changed.

Mr. SQUIRES. Well, it can be changed then.

The motion was agreed to.

Section 1 was read.

Mr. SQUIRES. Mr. President, in order to have this conform to other sections in the Constitution, I move that

the word "next" be inserted after the word "Tuesday."

Mr. WELLS. Mr. President, I do not think that is the language used elsewhere. Strike out the word "first."

Mr. SQUIRES. Yes, strike out the word "first," before "Tuesday."

The amendment was agreed to.

Mr. ROBINSON (Kane). Mr. President, in order to make this conform to the rest of the article, I move that in line 6, the word "prescribe" be stricken out, and "provide" be substituted.

Mr. HART. Mr. President, I think that is all right to make that change where there are three sections following each other, all of the same construction and nature. This is different from the others, and I am in favor of retaining this.

The motion was rejected.

Section 2 was read.

Mr. HART. Mr. President, in order to make section 2 uniform in one respect with section 1, I move that the words, "in the year of our Lord," in lines 2 and 3, be stricken out and the letters A. D. be inserted in lieu thereof.

The amendment was agreed to.

Section 3 was read.

Mr. LAMBERT. Mr. President, I move to strike out the word "more," and replace the word "greater," in line 7. I think it is better.

The amendment was agreed to.

Section 4 was read.

President Smith resumed the chair.

Mr. SNOW. Mr. President, there should be a comma placed after "districts." wherever it occurs, as follows: "County of Box Elder shall constitute the first representative district;" wherever that phrase occurs, there should be a comma placed after it.

Mr. HART. Mr. President, it is the tendency of modern usage to omit commas there. According to the old rule, we should insert a comma there, but I believe the tendency of modern times is such—

Mr. SNOW. Can you cite a tendency

of that kind? If you will look in your constitutions, you will find that it has been followed in all the constitutions.

Mr. HART. I have not had reference to constitutions. Probably they do. The general tendency of newspapers and periodicals is to omit commas.

Mr. SQUIRES. I will have to admit that my education, such as it is, was not acquired in the last few years. I was educated when I was a boy.

The motion was agreed to.

Mr. CANNON. Mr. President, I move that this article be referred to the committee on enrollment and engrossment.

The motion was agreed to.

On motion of Mr. Cannon, the rules were suspended, and the Convention, at 5:10 o'clock p. m., adjourned until 10 o'clock to-morrow morning.

SIXTY-SECOND DAY.

SATURDAY, May 4, 1895.

The Convention was called to order at 10 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Elledge.

Journal of the sixty-first day's session was read and approved.

The following communication was read:

Salt Lake City, Utah Ter.,
May 4, 1895.

To the President and Members of the Constitutional Convention:

GENTLEMEN.—Will you be so kind as to furnish me with a copy of the Constitution, to be sealed up in the construction of a table whereon will be signed the first bill passed by the first State Legislature of Utah? I now have in my possession a representative piece from each of the governors of the states and territories. If the copy could be printed on some light material so that it would not be too bulky.

If your honorable body will comply with this request, you will confer a lasting favor on

Yours with respect,

JOHN R. WILSON.

Salt Lake City, Utah Ter.

Mr. SQUIRES. Mr. President, I move that request be granted and the copy furnished to the gentleman.

The motion was agreed to.

Mr. VARIAN. Mr. President, I move to suspend the rules and correct a matter concerning section 4 as printed in the article on schedule, for the purpose of enabling the committee to proceed with its work. I move to strike out, under suspension of the rules, "and the people of the United States in the Territory of Utah."

Mr. GOODWIN. Mr. President, would not it be better to leave out this last "Territory of Utah," and make it "thereof?"

Mr. VARIAN. That could be included in one motion. I accept that. The committee, as I understood the chairman last night, did not feel authorized to make this change, and they recognize the fact that it was not consistent or harmonious. I make the motion now so that the section will read "or to any official board for the benefit of the Territory of Utah, or the people thereof."

The amendment was agreed to.

Mr. THURMAN. Mr. President, if this is in order now, I would like to call the attention of the Convention to section 9 of the article on judiciary. If the Convention remembers, the question that was discussed by Mr. Varian and Mr. Evans of Weber, and myself, on that section—to obviate an objection raised by Mr. Evans of Weber, that an appeal to the supreme court might permit of the case being tried anew in that court and witnesses examined, I gave notice that I would move to reconsider, after looking into the matter, and I will now offer an amendment to that. I move that the rules be suspended and that section 9 be amended as follows:

Insert after the word "court," in line 3, the words, "the appeal shall be upon the record made in the court below and."

Mr. GOODWIN. I would like to ask Mr. Thurman if the balance of that

line where the amendment is inserted adds any strength to it. Would not it be just as well to include in his amendment—

Mr. THURMAN. Yes, I think that should be there to cover the amount of bond and matters of that kind.

Mr. GOODWIN. All right.

The motion to suspend the rules and amend as stated was agreed to.

Mr. Eichnor offered the following resolution and moved its adoption:

Resolved, that the following attestation be placed at the end of the schedule of the Constitution immediately preceding the signatures of the delegates of the Convention:

Done in Convention at Salt Lake City, in the Territory of Utah, this——day of May, in the year of our Lord one thousand eight hundred and ninety-five, and of the independence of the United States the one hundred and nineteenth year.

The resolution was adopted.

The committee on compilation and arrangement reported the arrangement of the proposed articles for insertion in the Constitution as follows:

1. Preamble and declaration of rights.
2. Boundaries.
3. Ordinance.
4. Elections and rights of suffrage.
5. Distribution of power.
6. Legislative.
7. Executive.
8. Judicial.
9. Apportionments.
10. Education and school lands.
11. Counties, cities and towns.
12. Corporations.
13. Revenue and taxation.
14. Public debt.
15. Militia.
16. Labor and arbitration.
17. Water rights.
18. Forestry.
19. Public buildings not educational.
20. Public lands.
21. Salaries of public officers.
22. Miscellaneous.

23. Amendments.

24. Schedule.

On motion of Mr. Squires, the report was adopted.

The Convention then resumed the final consideration of the article entitled counties, cities, and towns.

Section 3 was read.

Mr. VARIAN. Is the word "stricken" in the first line of the article as passed? It seems like a strange formation.

Mr. IVINS. It seems to me the word "detached" would be a better word there; I move that the word "detached" be substituted.

The motion was agreed to.

Sections 4 and 5 and 6 were read.

Mr. WHITNEY. Mr. President, I wish to move, in section 3, line first, after the word which stands now "detached," and formerly was "stricken," the substitution of the word "taken," so that it will read, "no territory shall be taken from any county," I do not think Mr. Ivins will object to it; I have consulted with him.

The motion was agreed to.

Mr. HAYNES. Mr. President, in section 3, the last word in line 2, I move to amend by striking out "such" and inserting "said."

MR. WHITNEY. Mr. President, I have some slight doubt that that would better it.

Mr. CRANE. I think it should be left just the way it is.

The amendment was rejected.

Mr. VARIAN. Mr. President, I move to strike out, by consent, from the last line of page 37, in section 3, the words, "applicable to the whole State." All general laws are applicable to the whole State.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to strike out the article "a," there before "general law."

The amendment was agreed to.

Mr. ELDREDGE. Mr. President, I think the word "transcribed" there

should be changed to "provided," so as to conform to the other sections.

The amendment was rejected.

The Convention then proceeded to the consideration of Article XII, entitled corporations.

Section 1 was read.

Mr. THORESON. I move that the words, "as to such business," be restored in the next to the last line of that section, for this reason, that I do not believe the Legislature could limit legally or restrain corporations. We can only restrain the business that such corporations are doing in our State. They may be incorporated under some other state constitution, and we only regulate the business that they are doing.

The amendment was agreed to.

Mr. VARIAN. Mr. President, I move to strike out the words, "at any time," in line 4; it is sufficient to say that they may be amended or repealed by the Legislature.

The amendment was agreed to.

Section 2 was read.

Mr. VARIAN. Mr. President, I do not quite understand the meaning of the last clause in the section. Literally it would simply prevent them from having the benefit of any future legislation, without reference to existing legislation, which is carried by this Constitution. Was that the design of the article, or was it simply an oversight? In other words, is it the intention of the Convention to require all corporations to file an acceptance of the provisions of this Constitution with the secretary of state? If so, why limit it under the proviso that they shall not have the benefit of future legislation? That would leave it open to go on under their existing charters, which are carried over under the new Constitution by its general provisions. I confess I do not know what the committee intended by that—whether they intended to have every corporation in existence

file with the secretary of state an acceptance of this Constitution.

Mr. JAMES. Mr. President, this was debated about an hour when it was up, and that purpose was gone into. There was no other intent by the committee that adopted this—the committee of the whole, other than expressed in the language, and that was that they should not benefit by legislation unless they should file an acceptance of the provisions of the Constitution. That was all there was to it, and all there was in it.

Mr. RICHARDS. Mr. President, I was trying to get some information on this subject. It seems to be a little dubious to me, but the statement of the chairman is as I understood the discussion in the committee of the whole. I desire to call attention that the language of this section in one particular is not as the language of the original article. In the third line, "all existing charters, franchises, and special or exclusive privileges under which an actual bona fide organization has not taken place," is the language in the article as presented now, and as it was passed it was "shall not have taken place." I think the latter is the proper form. Of course it has not taken place now. This is in future. Therefore, I would move that that amendment be made.

Mr. WHITNEY. Mr. President, I suppose that the gentleman has considered that this reads on "has not taken place" at the time of the adoption of this Constitution.

Mr. RICHARDS. That is not correct.

Mr. WHITNEY. I am inclined to think the gentleman is correct.

The amendment was agreed to.

Mr. CANNON. Mr. President, I call attention to the fact that in the original article this read "and business," and not "nor business." I do not know why the committee has changed it.

Mr. GOODWIN. How can you find out whether a man is in good faith when he commences business?

Mr. WHITNEY. Why not strike out the words, "in good faith?" You can hardly go to a man's conscience.

The PRESIDENT. Do you make the motion to strike that out?

Mr. WHITNEY. Yes, sir.

Mr. SQUIRES. The way this sentence reads now, it seems to me that if a bona fide organization had taken place, that would make the charter valid, with the word "nor" in there. If you put the word "and" in place of the word "nor," then it would require that a bona fide organization had taken place, and business commenced. I think the word "and" should go in there in place of "nor."

Mr. WHITNEY. I think so, too.

Mr. SQUIRES. Mr. President, I move the substitution of the word "and" for the word "nor."

Mr. THORESON. Mr. President, I think the word "nor" is the proper word there.

The PRESIDENT. The question on Mr. Whitney's motion is the striking out of the words "in good faith," in the fourth line.

Mr. RICHARDS. Mr. President, I hope those words will not be stricken out, because they have peculiar significance. The insertion of those words was, no doubt, intended to avoid, and it could not attempt to avoid the law by simply making a pretense of commencing business. It must be an actual commencement of business. Evidently the object of this section is to avoid this condition. A corporation or individual may get a franchise, then, without a bona fide organization, or without actually commencing business in good faith, continue the life of this franchise. Now, it is to avoid that; it is to require that they either have an actual bona fide organization, for the purpose of exercising the franchise, or they must commence business in good faith. They might commence business by doing something that might technically be regarded as a commencement

of business, and yet not do it with any intention to carrying on that business, but simply for the purpose of holding the franchise, and it is to avoid that, that I understand these words are inserted. It is language that is frequently used in that connection, and I think it should be retained.

Mr. WHITNEY. I would like to ask Mr. Richards, after the word "actual," would not be better, then?

Mr. RICHARDS. I think not, for the reason I suggest. They may actually have commenced business, but with no expectation of continuing business, but simply for the purpose of holding a franchise.

Mr. WHITNEY. How can you tell whether a man intends to conduct it or not?

Mr. RICHARDS. That is a matter that is easily told.

Mr. WHITNEY. By simply commencing?

Mr. RICHARDS. No. Such questions are arising constantly and being adjudicated as to the actual commencing being in good faith.

Mr. SQUIRES. I will ask Mr. Richards this question: Suppose a company starts and actually commences business and then in a short time closes business, would not that be an evidence that they had not opened in good faith?

Mr. RICHARDS. No, sir. If an attempt were made to forfeit their charter or franchise, the burden of proof, I take it, would be upon the government to show it was simply a pretense, and that they were not acting in good faith, and if the State could show that clearly, they ought to have a right to forfeit it. If they could show it, it would not have that right. It is a matter that is frequently presented in this way.

Mr. JAMES. Mr. President, I hope that this Convention will amend the word "and" there, and leave the words "good faith" in. It is the language in almost every constitution. It is found everywhere, and as it was debated here

on the floor in the committee of the whole and in the Convention on third reading—

Mr. SQUIRES. Mr. President, I raise the point of order, to save time. That amendment is not before the house.

Mr. JAMES. I am speaking of the word "and."

Mr. SQUIRES. That is not before the house.

Mr. JAMES. The other part of it—I am speaking on both together.

Mr. WHITNEY. Mr. President, I will withdraw my objection to the phrase out of deference to the legal gentleman, Mr. Richards.

Mr. SQUIRES. Now, Mr. President, I present my amendment.

The PRESIDENT. The question is now on the change from "nor" to "and."

The amendment was agreed to.

Mr. BUTTON. Mr. President, I move we strike out the word "been," in the fourth line.

Mr. WHITNEY. Mr. President, I shall object to the striking out of that word; I think it is necessary to the balance of the sentence.

The amendment was rejected.

Sections 3 and 4 were read.

Mr. GOODWIN. Mr. President, I move a reconsideration of that vote by which "nor" was stricken out and "and" was inserted.

The motion to reconsider was agreed to.

Mr. SQUIRES. Mr. President, my object in moving that the word "and" be inserted there, was so that it will require both things to be done. I believe that if the word "nor" remains there, if a bona fide organization shall have taken place a charter will be valid without the other.

Mr. CANNON. Mr. President, I am opposed to the change from "and" to "nor." I prefer "and" for the reason that the purpose of it was to make not only the organization take place, but also business to be commenced in good

faith first. Now, if you insert "nor," if business is commenced in good faith, whether the organization is perfected or not, the existing charters would be perpetuated. I think the "and" should be required.

Mr. WHITNEY. Mr. President, I think the word "and" should remain, but in case a vote to change it prevails, I insist upon it being "or" instead of "nor."

Mr. GOODWIN. Mr. President, the way the paragraph reads, if the corporation fails in either, then it can be attacked, and if the word "and" is put in there—I may be dull, but I do not see any sense at all in it. I think Mr. Whitney's amendment is all right, to make it "or."

The motion of Mr. Squires was agreed to.

Section 5 was read.

Mr. SQUIRES. Mr. President, I move that the word "prescribed" be stricken out and the word "provided" put in its place, so as to conform to other actions already taken.

No second.

Mr. RICHARDS. Mr. President, I move to strike out the letter "a," in the 7th line, before "general law."

The motion was agreed to.

Mr. WHITNEY. Mr. President, in the fourth line from the bottom, section 5, I move that "nor" be changed to "or."

Mr. CANNON. Mr. President, I think that that would be an improper change. It is a negative proposition all the way through.

The motion was rejected.

Section 6 was read.

Mr. CANNON. Mr. President, I notice the committee has inserted the word "of" in the first line. I think the sense is better without it. I move to strike it out.

The question being taken on the motion, the Convention divided, and the vote standing 24 ayes to 22 noes, the motion was agreed to.

Mr. EVANS (Weber.) Mr. President, I move to amend that section by striking out the words "of the," in the first line, and the word "limits," at the beginning of line 2.

Mr. SNOW. Mr. President, I move a reconsideration of the vote by which "nor" is retained in line 4, after the word "stock." I think it should be "or."

Mr. WHITNEY. I second the motion. I contend that "or" is the correct word. It is merely an alternative.

The question being taken on the motion, the Convention divided, and by a vote of 37 ayes to 12 noes, the motion to reconsider was agreed to.

The PRESIDENT. The question is, shall it be changed to "or?"

The question being taken on the motion, the Convention divided, and by a vote of 40 ayes to 10 noes the motion was agreed to.

Mr. HAYNES. Mr. President, I move that the last sentence of section 5 be stricken out, "all fictitious increase of stock or indebtedness shall be void." It is not a constitutional provision, to say that a fictitious increase of stock shall be void.

Mr. SNOW. That requires a suspension of the rules.

Mr. HAYNES. Then, I move for a suspension of the rules.

The motion was rejected.

Mr. BUTTON. Mr. President, I move we take a recess until 2 o'clock.

The motion was rejected.

Sections 7 and 8 were read.

Mr. SQUIRES. Mr. President, I move that the article be struck out before the word "control," in next to the last line.

The motion was agreed to.

Sections 9, 10, and 11 were read.

Mr. SNOW. Mr. President, I move that in section 9 the words "in the same," in the third line, be stricken out.

Mr. CRANE. Mr. President, I do not think that that should be stricken out in this sense—that is a very material change in the section.

Mr. THURMAN. I want to ask the gentleman a question. Does "in the same" refer to the State or place of business? It is ambiguous the way it is and may refer to either.

Mr. CRANE. In the State. "State" could be replaced. Certainly to eliminate the three words would make a very material change in the section; if that is stricken out, Mr. President, the agents might be in another state, the way I read it, and not in this State. It certainly must mean that the agents must be residents of this State or in the same State, or something of the kind.

Mr. CANNON. Mr. President, the purpose, as I understand it, is different than that explanation by Mr. Crane. In the places of business is what "same" refers to, as I understand it. I think it is proper that it should remain. We want the agent in the place of business.

Mr. GOODWIN. Mr. President, I move an amendment to the amendment; strike out the word, "and" in line 3, and insert the word "with" in lieu thereof, and strike out the words "in the same."

Mr. JAMES. Mr. President, the gentlemen really do not understand what they are doing, when they move to strike this out. This is the language precisely of five or six of our constitutions, and not only that, there is not a single new constitution adopted in this western country that has not got it.

Mr. THURMAN. Let me ask the gentleman a question. What does "in the same" refer to—places or state?

Mr. WHITNEY. It sounds as if they might always have to be in their offices.

Mr. JAMES. Not necessarily. It is not so technical as that, Bishop. You cannot go into details and say they must be in their office. It says they must be either in their office or on the street where process can be served upon them—where their headquarters are.

The question being taken on the amendment to the amendment, the Con-

vention divided, and by a vote of 30 ayes to 16 noes, it was agreed to.

Mr. GOODWIN. Mr. President, to make the article correspond, I move that "nor," after the word "served," in the last line on the page, be made "or."

The motion was rejected.

On motion, the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled pursuant to recess, President Smith in the chair.

Roll call, to ascertain if a quorum was present, resulted as follows:

Adams	Lowe, Wm.
Allen	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maughan
Buys	Morris
Call	Moritz
Chidester	Murdock, Beaver
Christiansen	Murdock, Summit
Clark	Nebeker
Corfman	Page
Cunningham	Peterson, Grand
Cushing	Peterson, Sanpete
Eichnor	Preston
Engberg	Raleigh
Evans, Utah	Robertson
Francis	Robinson, Kane
Gibbs	Robison, Wayne
Hammond	Ryan
Howard	Shurtliff
Hyde	Snow
James	Squires
Kimball, Salt Lake	Stover
Kimball, Weber	Thompson
Lambert	Thoreson
Larsen, L.	Thorne
Larsen, C. P.	Williams—55.
Lemmon	

Mr. Snow presented the following resolution, and moved its adoption:

Resolved, That the committee on enrollment and engrossment be instructed to report the earliest date that the engrossed Constitution can be submitted for final reading.

The resolution was adopted.

The Convention then resumed the consideration of Article XII.

Sections 12, 13, 14, 15, 16, 17, and 18 were read.

Mr. JAMES. Mr. President, I do not see why the change was made in this section. This change was proposed by Mr. Cannon.

Mr. KIMBALL (Weber). That does not change the sense of the section.

Mr. JAMES. As I understood Mr. Cannon, this was the statute as it exists at the present time in Utah.

Mr. KIMBALL (Weber). That is true as to banking corporations, but it is not true as to any other corporations, and the transposition does not change the sense of the section at all. It leaves the section just as originally reported. It does not affect that.

Mr. RICHARDS. Mr. President, I think it does affect very materially, and I object to the change.

Mr. KIMBALL (Weber). The original section does change the effect of the present law, because there is no such law on the statute books to-day as embodied in that section, except as to private banking law of this Territory.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. There are three or four men talking here.

Mr. RICHARDS. Mr. President, I move that the transposition of the committee be not accepted, and that the paragraph be left as in the original copy. There is a very material change in the sense, as I understand it. The section as it now reads, or as printed in this copy, is that a stockholder in every corporation and joint stock association for banking purposes, in addition to the amount of capital stock subscribed and fully paid, shall be individually responsible for an additional amount equal to the amount of their stock in such corporation, for all its debts and liabilities of every kind. That is to say, a man's liability is still by this section limited to the amount of

stock he has in the company and an additional amount equal to that. But with the change that the committee propose to make, he is first individually responsible for all debts and liabilities of the company, of every kind, and then, in addition to that, he is liable for the amount of stock that he has in the corporation. Now, why should that be so? What is the purpose of law in making a man liable for twice the amount of stock that he has in the corporation? It is to pay the debts. That is the only object of it, and there is no reason in the world why a man should be liable in any additional amount after the debts are paid. But the purpose of this is to make him liable for the amount of his stock, and then, for an additional amount, equal to the amount of his stock, out of which to pay debts, and then if the debts are not paid, the man's liability ceases.

Mr. KIMBALL (Weber). Now, I would like for Mr. Richards, or any man on this floor, to point out to me where there is any difference between the section as transposed and the original proposition, except the transposition of the terms that the individual stockholders shall be liable for all debts and liabilities of every kind in an additional amount equal to the stock subscribed. That is the way it reads in the original article—except the phraseology in the amendment suggested by the committee and placed there by the committee, it is a little more euphonious, and makes it read a little better, that is all. And after all the debts and liabilities are paid, Mr. Richards's bugaboo is out of the way anyhow, because a stockholder could not be liable beyond the debts and liabilities in any event, and when the debts and liabilities are paid, the liability of the stockholder ceases, and I submit that the change in phraseology in that makes it read a little more pleasantly and makes it better.

Mr. JAMES. Doesn't this cover what

the effort was made to cover; doesn't it provide for all we attempted to cover?

Mr. KIMBALL (Weber). Their reading does.

Mr. JAMES. Then, why change this one?

Mr. KIMBALL (Weber). Simply because it reads a little more pleasantly and would answer the criticisms of grammarians a little better, that is all. And in the absence of the members who purport to be champions of grammar here, I am in favor of the change made by the committee.

Mr. THORESON. Mr. President, I hope that the Convention will not change this correction made by the committee. I think it is a good one, the way it now reads. It will not change the liability of the stockholders. I think that change that the committee has made is a good one and is grammatically correct. It does not change the meaning, but has much better phraseology.

Mr. PRESTON. Mr. President, the original writing of this is correct, and the change made by the committee is not. It makes stockholders individually responsible for all debts of the bank or the company that they are associated with, and then double the amount of their stock besides, and that is not intended. The original writing is correct, and whether it is quite as euphonious and grammatical or not, it is written so that it can be easily understood, and ought to remain as it was originally, without the amendments made by the committee.

The motion of Mr. Richards was agreed to.

Section 19 was read.

Mr. SNOW. Mr. President, ought there to be a comma after "obtaining," in the fifth line? I move to strike it out.

The motion was rejected.

Section 20 was read.

Mr. THURMAN. Mr. President, I de-

sire to know why the words, "for that purpose," were struck out. I move those words be reinserted.

The motion was agreed to.

Mr. KIMBALL (Weber). Mr. President, in order to test the sense of the Convention, I will suggest this, that at common law, no statutes were punctuated and no contracts were punctuated, and I suggest now to save time that we follow the common law rule and quit this punctuation. I make that motion.

The motion was rejected.

Mr. WHITNEY. Mr. President, it seems to me that the pronoun "it" ought to precede the word "may," in the next line to the last one of that section. I move the insertion of that word.

The motion was agreed to.

Mr. SQUIRES. Mr. President, I move that a comma be inserted after the word "penalties."

The motion was rejected.

Mr. KIMBALL (Salt Lake). Mr. President, I move you that in the punctuation, that when a person makes a motion or suggests a comma, or anything of that kind, if there is no objection from the house, it shall stand.

The motion was rejected.

Mr. LUND. Mr. President, I move that any person making a suggestion, cite a rule for so doing. I think that will suppress all these suggestions.

Mr. KIMBALL (Weber). Mr. President, I object to that motion. Some of us are not as wise or as well informed as the gentleman from Sanpete; and do not want to be called upon to expose our ignorance.

The motion was rejected.

Mr. MORRIS. Mr. President, in regard to section 20, I think that other articles will come in contact with this section. In relation to the combination of the soap factories in this city—and this will touch them, and govern them in their actions. I would like very much to get a little information

on this. I belong to a firm of a combination on mills. I have heard many making a remark, it was a trust to regulate prices, or to raise the prices. I find another about to be incorporated or united together of four corporations of this city.

The object, I understand it, then, is to cut down expenses and cost. While we have four soap factories in this city to-day, it is more than the market demands, and they are all losing money in their competitions, and not able to keep in full capacity. They are going to form a combination to cut down expense that they may be able to compete with foreign markets. Some might construe this, according to this section, a trust that will raise the price of that article, while the object, in fact, is that they want to stop operating one or two of these factories, and cut down the expense. Will this section reach that class? I think it is a serious thing.

Mr. KIMBALL (Weber). Mr. President, I am of the opinion that this section will reach the class that Mr. Morris alludes to. I am further of the opinion that it would be very proper that it should reach that class. This is an article against combinations or trusts, to keep them, as the common phrase is, from cornering the market on any particular product. While it is true that this section may be a hardship to one particular industry, in the great majority of instances it proves a public good, and promotes the public welfare. Now, there is no law passed, either by a legislature or by Congress, but what in isolated cases will prove a hardship, but the hardship is only the exception to the rule, and because in this Territory there may be one industry that will be retarded, and will be made to suffer a loss by this section, in the outcome the section may prove a benefit to the public, for the reason that it prevents combinations and corners, and I submit that, not-

withstanding the objection of the gentleman, this section should stand.

Article XIII, entitled revenue and taxation, was then taken up for final consideration.

Sections 1 and 2 were read.

Mr. WHITNEY. Mr. President, in the sixth line from the bottom of section 2, I move that the word "and," beginning the section, be stricken out. It is entirely superfluous.

The motion was agreed to.

Mr. RICHARDS. Mr. President, I think the words "in this State," should be inserted after the word "taxed," in the twelfth line. They are in my copy.

Mr. CANNON. Mr. President, the debate took place upon that for about a half an hour, after which the Convention refused to insert the words which the gentleman wants inserted.

Section 3 was read.

Mr. KIMBALL (Weber). Mr. President, I offer the following amendment to that section: To strike out after the word "of," in the second line on page 43, "the United States, the State, counties, cities, towns, school districts, municipal corporations," for the reason that there is no power in this State to tax either one of those. The State would not certainly tax its own property; it cannot tax the property of the United States; and it is certainly unnecessary to have in here a provision that the Legislature of this Territory cannot tax the property of the United States or of the State, or of the counties, cities, towns, school districts or municipal corporations.

The PRESIDENT. Do you move to suspend the rules?

Mr. KIMBALL (Weber). I do not think it is a motion to suspend the rules, because it does not touch the substance. If necessary, I move to suspend the rules and take up the consideration of that section 3 for the purpose of making that motion.

The motion was rejected.

Mr. CANNON. Mr. President, I notice

the committee have changed the first word at the top of page 43, and have it read debits. As it was originally it provided that a deduction of debts from credits may be authorized. I move that that be changed to its old form; the language is taken from Washington.

Mr. EICHNOR. It is all right.

The motion was agreed to.

Section 4 was read.

Mr. JAMES. Mr. President, I move to amend the word "proceeds" to "profits." It was a word that I overlooked at the time, but after it had been adopted by the Convention on its passage, my attention was called to it, and I believe that if the word was changed to "profits" in place of "proceeds," although it is intended to cover that very proposition, it is more comprehensive and better understood by mining people.

Mr. BUTTON. Do you move to suspend the rules?

Mr. KIMBALL (Weber). It is a very radical change.

Mr. JAMES. I take it not. It is put there to cover and mean "profits." I move to suspend the rules.

No second.

Mr. KIMBALL (Weber). Mr. President, in that section I desire to make an amendment, by striking out, beginning with "which," in the fourth line of that section from the bottom, and including the word claims, in the fifth line. It may be thought that is a radical change. I move to suspend the rules for the purpose of making that amendment. You see the preceding section taxes all mining machinery and all surface improvements, appurtenant to the mine and mining claims. If you strike out what I move to strike out, it will leave that all taxable. You leave in the words that I move to strike out and it leaves it uncertain there as to what is valuable for mining purposes and what is not valuable for mining purposes.

Mr. CANNON. Will the gentleman

permit a question? I desire to know, if I understood you correctly, to say that all mining men on this floor favor the change?

Mr. KIMBALL (Weber). I believe there is not a mining man on this floor—there is not one that I have conversed with, at least, but what favors that change.

Mr. GOODWIN. I will ask Mr. Kimball if he understands why that was put in?

Mr. KIMBALL (Weber). I do not, sir. I have talked with several mining men on this floor and they have been unable to say why that was put in.

The motion to suspend the rules was rejected.

Mr. RYAN. Mr. President, I would move to suspend the rules and strike out, commencing in the first line after the word "claims," down to and including the word "depositors." I do that in the interests of simplifying the section. If you leave it as it is, the first time some claim is taxed, they will make the county prove that it is mineral bearing in some particular, and it will give rise to litigation, while if it is stricken out, everything is covered anyway. I think it should be stricken out.

The question being taken on the motion to suspend the rules, the Convention divided, and by a vote of 26 ayes to 22 noes, the motion was rejected.

Sections 5, 6, 7, 8, and 9 were read.

Mr. KIMBALL (Weber). Mr. President, I move that in section 9, the second line on page 45, the word "eight" be stricken out and the word "seven" inserted.

The amendment was agreed to.

Section 10 was read.

Mr. CANNON. Mr. President, I move to insert the letter "t" before the word "herein," in line 2.

The motion was rejected.

Sections 11 and 12 were read.

Mr. Snow offered the following resolution and moved its adoption:

Resolved, That the committee on enrollment and engrossment be instructed to employ the necessary help to report the engrossed Constitution to this Convention for final reading on Monday, May 6, at 2 p. m.

Mr. SQUIRES. I do not see how you can do that. This engrossment has got to be done in one hand.

Mr. THURMAN. Mr. President, I would like to know why it should be in one hand if we direct several men to do it.

Mr. SQUIRES. I see a good reason why.

Mr. SNOW. Mr. President, I would like to amend that and make it Tuesday morning, as there are a great many here that would like to vote for it on Tuesday.

Mr. CANNON. Mr. President, I would like to move as an amendment to the gentleman's motion, that the chair appoint now a committee of five to consider this matter and report at once to the Convention.

Mr. KIMBALL (Weber). Mr. President, I raise the point of order that that is not an amendment.

The resolution offered by Mr. Snow was adopted.

Mr. Kimball, of Salt Lake, offered the following resolution and moved its adoption:

Resolved, that the sergeant-at-arms notify, at once, each absentee to be present Monday morning, May 6th.

The resolution was adopted.

The Convention then proceeded to the consideration of Article XIV.

Sections 1 and 2 were read.

Mr. CANNON. Mr. President, I move that the word "for," in the last line of section 2, be stricken out and the word "to" be inserted.

The amendment was rejected.

Mr. WHITNEY. Mr. President, I move that the word "whatever," the last word in that section, be stricken out.

The amendment was agreed to.

Mr. WHITNEY. Mr. President, I move still another amendment in that section, in the second line from the bottom, after the word "applied," I would insert the word "only."

The amendment was agreed to.

Sections 3, 4, 5, 6, and 7 were read.

Mr. THURMAN. Mr. President, before we leave this, I wish to call attention to one thing, section 1, the last three lines, "all moneys arising from loans herein authorized shall be applied solely to the purposes for which they were obtained." The word "solely" and the word "obtained" are used now in the next section. We say, "but the money arising from the contracting of such debts shall be applied only to the purpose for which it was raised." I move to strike out the word "only," in line 4 of section 2, and insert "solely," and strike out the word "raised," in line 5 of section 2, and insert the word "obtained," to harmonize with the language used in the section above.

The motion was agreed to.

Article XV was then taken up.

Section 1 was read.

Mr. RYAN. Mr. President, I would like to get the consent of the Convention to reconsider and change this. Change the word "citizens," occurring first in line 2, to "inhabitants," and strike out "and males who have declared their intention to become citizens." Change "laws" to "law." And strike out "of the United States or of this State."

Mr. THURMAN. If you will change the "forty-five" to "forty-three," I will second the motion.

Mr. RYAN. That follows the requirements of the United States statutes. This section as it is now fixed looks like a raw recruit, you might say, and "inhabitants" now covers everything, because if he is an alien he could not be forced into the service anyway, and if he is exempt under the laws of the United States, he could not be forced into the State service, so that it would

then be compact and uniform. I move a suspension of the rules.

The motion to suspend the rules was agreed to.

The amendment was agreed to.

Section 2 was read.

Articles XVI, XVII, and XVIII were read.

Mr. GOODWIN. Mr. President, I want to give notice that if I can formulate anything to satisfy myself, I am going to add a section to the water rights article.

The PRESIDENT. It seems to me there ought to be something whereby the State claims the water.

Mr. Lambert offered the following resolution:

Resolved, That the Convention order 1,000 copies of the Constitution printed, and that a copy be sent to each official in the Territory and five copies to each member of the Convention, and two copies to each newspaper printed in the Territory.

Mr. SQUIRES. Mr. President, I move that be laid on the table.

The motion was rejected.

Mr. CHIDESTER. Mr. President, I do not understand the resolution. Have we passed a resolution heretofore authorizing the printing of the copies?

Mr. SQUIRES. Mr. President, the reason I asked to have it laid on the table was that I wanted a little time to consider whether this distribution was just what we wanted. Five copies to each member would dispose of 535 copies. Now, there are 465 copies to go elsewhere, and it seems to me that the members ought to have more than five copies each. I wanted to find out how many newspapers there were in the Territory, to know how to distribute them.

Mr. CRANE. I would like to ask the chairman of the committee on printing what this will cost?

Mr. LAMBERT. Until we had some authority, we did not feel at liberty to

ask for bids. I intended to ask for bids in paper covers.

Mr. SNOW. Law sheep will not cost more than about three or four cents more.

Mr. LAMBERT. Fifteen cents more.

Mr. SNOW. It won't cost that. I will agree to get them for five cents more.

Mr. CANNON. I move the offer be accepted.

Mr. SQUIRES. Mr. President, my motion to lay on the table having failed, I now move to postpone further consideration until Monday.

Mr. BUTTON. Mr. President, I move to amend that, that the committee find out what they will cost and report Monday.

Mr. RICHARDS. Would you be willing to let the resolution go to the committee on printing until Monday?

Mr. SQUIRES. Certainly.

The motion of Mr. Squires was agreed to.

Mr. SQUIRES. I withdraw the motion to postpone it.

Mr. KIMBALL (Salt Lake). Mr. President, I move as an amendment to the amendment that any surplus copies be divided among the members.

Mr. RICHARDS. Mr. President, I think there is a misapprehension of this motion. I understood Mr. Squires to withdraw his motion to postpone and accept the amendment suggested by the gentleman from Salt Lake, that it go to the committee on printing, to report on Monday the cost of this work.

Mr. SQUIRES. That is correct.

The motion was agreed to.

Mr. SQUIRES. Mr. President, I move we adjourn until Monday at 10 o'clock.

The motion was agreed to, and the Convention then, at 4:35 p. m., adjourned until next Monday at 10 o'clock a. m.

SIXTY-FOURTH DAY.

MONDAY, May 6, 1895.

Convention met pursuant to adjournment. President Smith in the chair.

Prayer was offered by Delegate Clark.

Journal of the sixty-second day's session was read and approved.

Mr. LUND. Mr. President, as the accounts have all been made up to-day, and there is some little question about the stenographer—I did not want to raise it, but it ought to be decided this morning, and I would call the attention of the Convention to the agreement that you made with the stenographer, to have the understanding made complete this morning. You will find it on pages 23 and 24 of the minutes. I believe the stenographer will state his side of the case.

Mr. CHIDESTER. Mr. President, I would suggest that Mr. Lund explain what the difference is, so that the Convention will understand it.

Mr. LUND. Mr. President, I was not the one who made this agreement, and inasmuch as there is difficulty or a misunderstanding, I think we ought to hear from the Convention at large or else from the committee on stenographer. I have not been able for myself to decide which is right in this case, the Convention or Mr. McGurkin. The chairman, I believe, of this committee would report that the days actually in session do not include Sundays and holidays, and I think that Mr. McGurkin had the other understanding when the arrangements were made.

Mr. CHIDESTER. Mr. President, I move that this matter be referred to the committee on expenses.

Mr. LUND. Mr. President, we have no time to refer this matter.

Mr. HART. Mr. President, I move you that we allow Mr. McGurkin his pay according to his understanding of this matter; that is, that we pay him

for the days' session as recorded on our journal.

Mr. LUND. Mr. President, as I understand it, Mr. McGurriu has had from these sessions more work than his per diem and his transcribing will make, according to the rate at which he was paid, than thirty dollars per day, and I am of the opinion that Mr. Hart is, that he should be paid by the day as the members are paid.

Mr. BOWDLE. How many days difference are there?

Mr. LUND. There will be nine days, I think, difference.

Mr. EVANS (Weber). I would like to ask Mr. McGurriu a question, will the work when transcribed exceed the thirty dollars a day, counting the ten dollars per diem and fifteen cents per folio?

The STENOGRAPHER. Yes, sir.

Mr. EVANS (Weber). Mr. President, as I understand it, as we adjourn tomorrow, that will make sixty-five days that the Convention will have been in session, amounting to \$1950, and the only difference would be three hundred dollars, if all the Sundays and holidays would be deducted. If what Mr. McGurriu states is true, and I have no doubt about it, I will support the motion of Mr. Hart.

Mr. SQUIRES. Mr. President, I understand that not only this statement is true, that Mr. McGurriu will not only have to work during the days of the session, but some days afterwards, in order to comply with his agreement with the Convention and the secretary of the Territory.

The motion was agreed to.

Mr. THORESON. Mr. President, I move we accept the invitation of the railway company for a trip to Saltair at 3 p. m. to-day.

The PRESIDENT. The train goes at 2:15.

Mr. EVANS (Weber). Mr. President, if there is work for this Convention to do, I am opposed to going out to

Saltair at all to-day. We ought to finish our work before we go on any more junketing tours.

Mr. CHIDESTER. Mr. President, I amend the motion by saying that we decline the invitation.

Mr. WHITNEY. With thanks.

Mr. THORESON. Mr. President, I arise to a point of order on the amendment. We have accepted the invitation. It is a mere fixing of the time, and the only way we can do away with it is to reconsider the motion on which we accepted the invitation.

Mr. SQUIRES. Mr. President, I am going to try to get rid of this motion of Mr. Chidester's by moving to lay upon the table—the motion to decline the invitation. After we have once accepted it, it seems to me a little discourteous.

Mr. PRESIDENT. The chair will sustain the point of order of Mr. Thoreson.

Mr. EVANS (Weber). Mr. President, I move to postpone the fixing of the time indefinitely.

The motion was rejected.

The motion of Mr. Thoreson was agreed to.

Mr. SNOW. Mr. President, I would like to know what the sense of the house is in relation to the report made by Mr. Crane, in reference to the engrossing of the Constitution.

Mr. EVANS (Weber). Mr. President, as I understand it, Mr. Crane notified the Convention that the engrossing clerk had discharged the help. I would like to inquire by what authority the engrossing clerk discharged the help.

Mr. EICHNOR. Mr. President, it appears there is no question before the house, but if the chairman of the committee discharged that man, the question might arise, was the clerk competent, or not? I presume the clerk was not competent, and that was the reason he was discharged.

Mr. ROBERTS. I would like to ask Mr. Crane if by waiting until Wednes-

day morning, the Constitution can be presented to this house, engrossed in one man's handwriting?

Mr. CRANE. Wednesday morning, yes; so I am informed by the engrossing clerk.

Mr. ROBERTS. Mr. President, in order that we might reach a conclusion upon this, I move you, sir, that the house reconsider the resolution of Saturday last, and that the engrossing and enrolling committee be instructed to have that engrossing done by one man and report it here Wednesday morning. The purpose of this engrossed copy is that it shall remain in the archives of the State.

Mr. EICHNOR. Yes, for centuries.

Mr. ROBERTS. Then, Mr. President, whether it is to be sent to the President of the United States in its engrossed form, or is to be preserved in the archives of the future State, I think, sir, that we owe it to ourselves and to all good taste that we have that engrossing done in one man's handwriting, and not make a hotch-potch copy to be preserved by this State for all generations to come. Gentlemen, let us not be in such great haste that we will commit this blunder against good taste, of having that engrossing done in several men's handwriting. Let us wait one day more, I beseech you, and have this work done neatly, that it will be a credit to our good taste, at least, for all time to come.

Mr. WELLS. Have you any information, Mr. Roberts, as to when that may be done?

Mr. ROBERTS. I was so informed, and that was the reason I made the motion, by Mr. Crane, that he had information that the engrossing clerk would complete his work by Wednesday morning.

Mr. SNOW. Mr. President, I want something more definite than that before I vote on this question. We had it definitely stated here yesterday through the same mouthpiece that it would take

until Thursday or Friday, and it was upon that view that we passed the resolution that we adopted yesterday.

Mr. SQUIRES. If it will be done Wednesday, I have no objection, but I do object to waiting until next week.

Mr. HART. Mr. President, I am informed by the chairman of the committee on enrollment and engrossment that that work can be finished in the handwriting of the engrossing clerk by Wednesday morning. I am in favor of the motion of Mr. Roberts, and I endorse his position fully. I think we would be committing the greatest blunder of the session if we insisted on having a patchwork made of the engrossing of our Constitution.

The PRESIDENT. The engrossing clerk is here.

Mr. SQUIRES. At what time can you have the Constitution engrossed all in your handwriting?

Engrossing Clerk SMITH. Well, I think that the whole Constitution can be engrossed in my handwriting by 10 o'clock Wednesday morning.

Mr. SNOW. I have no objection to that. I will accept it.

Mr. HART. I move to amend by making the time Wednesday.

The motion of Mr. Roberts was agreed to, as amended.

The following invitation was read:

The delegates and officers of the Convention, including their ladies, are cordially invited to attend a ball and reception, given to them by the citizens of Salt Lake, at Christensen's hall, west First South street, Monday evening, at 8:30.

(Signed) W. H. LETT,
GRANT H. SMITH,
D. C. DUNBAR.

Mr. STOVER. Mr. President, I move that it be accepted with thanks.

The motion was agreed to.

The Convention then proceeded to the final consideration of Article XIX, which was read and passed without amendment.

Article XX was then taken up.

Mr. RICHARDS. Mr. President, I desire to call the attention to the fact that there is a repetition in the second paragraph of the third section. I move to strike out the words "are located," in the second line of the first subdivision.

The motion was agreed to.

Mr. SQUIRES. Mr. President, in this first subdivision, the State prison is located at the city of Salt Lake. The State prison is not situated in the city of Salt Lake. I move it be transposed so as to read like this:

The seat of government and State fair at Salt Lake City, in the county of Salt Lake, and the State prison in the county of Salt Lake.

The amendment was agreed to.

Mr. PETERS. Mr. President, I desire to call attention of the Convention to Article XIX, in line 2. I move to strike out the word "the," before the word "Constitution," and insert the word "this" in lieu thereof.

The amendment was agreed to.

Article XXI was read.

Article XXII was read.

Mr. CRANE. Mr. President, I would like to make a transposition in section 1, so that it should read like this:

The Legislature shall provide by law for the selection by each head of a family of a homestead of the value of at least fifteen hundred dollars, and for its exemption from sale on execution.

It makes it more terse, so any one can understand it.

Mr. THORESON. Mr. President, I notice in the printed matter before us to-day, that there are some changes made that mixed this matter up. I would like to have the original resolution as presented by the gentleman from Salt Lake, and we will find the language constructed probably even better than the motion now before the house.

Mr. SQUIRES. Mr. President, I am in favor of this change suggested by

Mr. Crane. I believe it makes the sentence more clear.

Mr. RYAN. I would like to ask Mr. Crane if that would not fix the homestead of one tract or of one town lot as the case might be.

Mr. CRANE. No, I think not. He could have it in dozens, as long as he did not exceed fifteen hundred dollars.

Mr. RYAN. I think it fixes it to one tract.

Mr. THORESON. Mr. President, I agree with the gentleman who has just spoken that by using the pronoun there it is singular, while here as in this section, the homestead might include several pieces of land, and in consideration of that I am opposed to this change, and I move as an amendment to the motion now before the house that the section read as follows:

The Legislature shall provide by law for the selection, by each head of a family, an exemption, of a homestead of the value of at least fifteen hundred dollars, from sale on execution.

Mr. RICHARDS. Mr. President. I think the amendment to the amendment ought to prevail. I think that this language as it was adopted by the Convention expresses exactly what is desired and without any ambiguity, whereas the proposed amendment by the chairman of the committee may possibly cause some confusion.

Mr. EVANS (Weber). Mr. President, I just want to make a suggestion. As it is well known that I opposed this and do now, because I think it is all wrong, I am satisfied the way that reads that the Legislature would not have power to exempt as a homestead more than one piece of property. The word homestead is well understood in law and means where the family reside, where the home is made. If the man happens to have a little piece of property that is only worth about two hundred and fifty dollars and lives upon it, and has a detached piece of property some other place, I think that that

other piece of property detached would not be a homestead. I make this suggestion, so that some friend of the measure might remedy it.

Mr. RICHARDS. Is not it a fact that our present homestead law is in practically the same language as this?

Mr. EVANS (Weber). No, sir. Our present homestead law says that the head of a family shall have a further exemption of lands of the value of one thousand dollars and five hundred dollars for the wife, and two hundred and fifty dollars for each other member of the family. It expressly uses the word lands in the plural. But this says, "a homestead."

Mr. ELDREDGE. To strike out the word homestead and insert the word real property, would that not cover the ground?

Mr. EVANS (Weber). Yes, sir; I think if, after the word "homestead," in line 3, the words were inserted, "consisting of lands," it would then be definite.

Mr. CHIDESTER. Mr. President, I will make that as an amendment, if the gentleman would accept it.

Mr. THORESON. I will accept that, yes, sir.

Mr. CANNON. Mr. President, I am in favor of the amendment offered by the gentleman from Weber County and which is now accepted by Mr. Thoreson. That was the idea of the Convention at the time it was adopted, because a man who might live upon a small tract in town might, in addition to his little town lot, have a few acres of land upon which he might obtain his living.

Mr. FARR. Mr. President, I hope that will not prevail. I do not know why we should say that a homestead will consist of lands. Why not say homestead so that then it will consist of the house and improvements and land?

Mr. VARIAN. Mr. President, I do not see how this amendment betters that. It is not land. Does not the gentleman

contemplate also including improvements on land?

Mr. SQUIRES. Does the gentleman think that that would exempt improvements on lands?

Mr. THORESON. It would include improvements on lands.

Mr. SQUIRES. There might be a house on one piece of land where the man resided, and another might have improvements. Now, would these improvements be exempt?

Mr. THORESON. Yes, sir; to the amount of fifteen hundred dollars.

Mr. VARIAN. I would like to ask the gentleman if his idea would not be better expressed in this way: "which may consist of lands not contiguous in location?" I think that is the underlying thought of the gentleman.

Mr. THORESON. Yes; I would be in favor of that.

Mr. VARIAN. Another thought has been suggested by Mr. Richards. It is just as well, if we are going to enact details, to be certain as to the construction there. Now, my attention is called to the statute as it exists, which has been construed in the way desired, "consisting of lands, together with the appurtenances and improvements thereon."

Mr. THORESON. All right; I will have the words written and supplied. Add after the word "homestead," the words, "which may consist of parcels of lands not contiguous, together with the appurtenances and improvements thereon."

The amendment was agreed to.

Mr. BOWDLE. Mr. President, it seems to me the words, "not contiguous," are improper in there.

Mr. EVANS (Weber). Mr. President, in order to get that matter before the Convention, I move a reconsideration of the vote by which the amendment was adopted. I would suggest the following, "which may consist of several parcels of land, together with their ap-

purtenances and improvements thereon."

Mr. VARIAN. Mr. President, I would like to know what the necessity for this tinkering with this article is. I undertake to say that without anything in this Constitution at all on this subject, the Legislature can provide exemption or homestead laws, and by simply making it as we have done, it does not limit the power of the Legislature in any particular.

The motion to reconsider was agreed to.

The PRESIDENT. The question now is upon the amendment of this section.

Mr. EVANS (Weber). I would like to suggest an amendment, after the word "homestead," in line 3 of section 1, I would insert, "which may consist of one or more parcels of land, together with their appurtenances and improvements thereon."

Mr. THORESON. I will accept of that.

Mr. VARIAN. Mr. President, I am going to call for the enforcement of the rule and demand the roll call. It takes a two-thirds vote to amend this section.

Mr. RICHARDS. Let me ask the gentleman from Salt Lake what possible objection there can be to the amendment suggested by the delegate from Weber, if there is any serious objection I would like to know it.

Mr. HART. Mr. President, I am in favor of making this thing certain, for the reason that the word "homestead" has a definite meaning throughout the United States. There are but very few states in the Union—possibly not more than two or three, that exempt a homestead consisting of the value. Most of them exempt the definite homestead, and even with the wording of our present statute, there has been a difference of opinion, some contending that even under our statute, a homestead is meant; that is well understood to be consisting of one tract upon

which the domicile is situated. Therefore, in order to make it certain, and place it beyond the possibility of any doubt of cavil, I am in favor of defining the word "homestead," in the way suggested by the gentleman from Weber.

Mr. VARIAN. We withdraw the demand for roll call.

Mr. BOWDLE. Mr. President, this is exactly the position I took the other day upon this. It may be true that the Legislature, under the article as it stands, could give an exemption in different tracts of land, but I very gravely doubt that question. We say what that exemption is for. It is for a homestead. It is not an exemption for the benefit of a family generally, but the home may be kept together, and it has been defined over and over again, and I know of no definition save in one place, the state of Alabama, in which it has been held that a homestead might consist of more than one piece of land, unless they were contiguous, and for the sake of making it plain and certain, I am in favor of this amendment. I move to amend that by inserting after the word "lands" the words "not contiguous."

Mr. EVANS (Weber). It means that. It says one or more parcels of land.

Mr. BOWDLE. Suppose they were different town lots, and were lying right together, might they not then be considered, each lot as a parcel of land.

Mr. EVANS (Weber). If they were town lots lying together, yes; but this permits the head of the family to select one or more parcels, just as he pleases, not exceeding in value fifteen hundred dollars.

The amendment of Mr. Evans, of Weber, was agreed to.

Article XXIII was read.

Article XXIV was taken up.

Sections 1 and 2 were read.

Mr. ALLEN. Mr. President, I move to strike out the words "which are," in line 2.

The motion was agreed to.

Sections 3 and 4 were read.

Sections 5 and 6 were read.

Mr. RALEIGH. Mr. President, I move the word, "be," in the fifth line from the top of page 57, be stricken out, and the words "have been" be inserted in place of it.

The motion was agreed to.

Mr. VARIAN. Mr. President, I move to strike out the words "in this Constitution," in lines 1 and 2 of page 57.

The amendment was agreed to.

Section 7 was read.

Mr. BUYS. Mr. President, it seems to me that the semi-colon after the word "Union" is wrong; this is a part of the logical subject, and I think the subject ought not to be divided by a semi-colon. I think it should be a comma and the word "and."

The amendment was agreed to.

Mr. SQUIRES. Mr. President, in section 5 you have exactly the same condition, in the fifteenth line; you have a semi-colon and then the next sentence begins without a conjunction. I think the semi-colon should remain there, but the conjunction should come in, "and all records and public archives."

The amendment was agreed to.

Sections 8 and 9 were read.

Mr. RICHARDS. Mr. President, in section 8, I move that the words "of Utah" be inserted after the word "Territory," in the fourth line.

The amendment was agreed to.

Section 10 was read.

Mr. VARIAN. Mr. President, I see no use of the third line, "under the authority of the United States." I move to strike out the words. They do not hold offices under the authority of the United States, but under the authority of the Territory of Utah. Their appointments are by the President of the United States.

Mr. RICHARDS. I hope the gentleman will not insist upon that motion. Some of these offices are provided for by the Organic Act and act of Congress.

Mr. VARIAN. Well, I will withdraw the motion.

Mr. THURMAN. Mr. President, I will move upon that an amendment and say, "under authority of law."

The amendment was agreed to.

Mr. VARIAN. Mr. President, it seems to me "by" ought to take the place of "under." I move to insert "by" for "under."

The amendment was agreed to.

Section 11 was read.

Mr. RICHARDS. Mr. President, in the fourth line of the proviso, the words after the word "election," "and are qualified voters," were stricken out. I therefore move that they be stricken out here.

Mr. VARIAN. I understood that the question was raised but it was suggested that that applied to registration.

Mr. RICHARDS. It was raised and discussed and acted upon, and the words were stricken out.

Mr. FARR. Mr. President, I move that they be stricken out.

Mr. SQUIRES. Mr. President, my marked copy as it passed the committee of the whole shows that the words "and are qualified voters," were not there, but in the Convention those words were inserted on the motion, I believe, of Judge Goodwin.

The PRESIDENT. Unless there is objection, the words will be stricken out.

Mr. VARIAN. Mr. President, before we pass from section 11, I want to call the Convention's attention to the fact that as it now reads, it will permit convicts not pardoned by the governor to vote. The question is whether we want to insert something.

Mr. THURMAN. Does not the Enabling Act permit the same class to vote?

Mr. VARIAN. Yes; I think it does.

Mr. RICHARDS. We are required by the Enabling Act to allow more people—

Mr. VARIAN. I simply call attention to the fact that day after day and week after week you are discharging from the penitentiary up here people convicted of

all sorts of offenses under the territorial law. I care nothing about it myself, but it will permit those people to vote.

Mr. RICHARDS. I desire to call attention to the Enabling Act, which says that all persons may vote, possessing certain qualifications not in conflict with this act.

Mr. VARIAN. This conforms with the act.

Sections 12 and 13 were read.

Mr. SQUIRES. Mr. President, I notice that the words "district courts" here are capitalized. We have passed several sections where they were not, this morning.

Mr. THURMAN. Mr. President, in order to test the necessity of this section 13, I move to strike it out. It seems to me it is provided for in other parts of the schedule, and if there is any reason why we should have this—these territorial laws are in force until repealed by the Legislature. They are to be adapted by the State officers until repealed.

Mr. VARIAN. I would like to ask the gentleman if there is any provision for contest of district judges under territorial laws.

Mr. THURMAN. I think the law is general, is it not, and provides for all officers? Well, we have not time. I will withdraw the motion.

Mr. SQUIRES. I move that wherever "district courts" occurs in the Constitution, it be capitalized.

Mr. THORESON. Mr. President, I hope that amendment will not prevail. In a good many places, it was written in the lower case.

Mr. SQUIRES. Mr. President, I submit that is not the statement of the fact as it exists. There are a number of places in the Constitution, where I know they were capitalized.

Mr. RICHARDS. Mr. President, I would suggest, if we are going to have a motion on the subject, I would rather the motion be that it be uniform. Whatever rule they have pursued in the fore

part of the document I would like to see carried out.

Mr. HART. Mr. President, as I understand it, the words "district courts" are used in more than one sense. In some instances they are used as a common noun, and others as a proper noun, designating the particular courts, and I don't think we have had this matter uniform thus far, and wherever those words appeared as common nouns, they were not capitalized, and where they designated them more particularly, they were capitalized.

Mr. RICHARDS. I desire to suggest to the gentleman that my amendment will cover just that case. Whatever rule they have adopted so far let them carry that out.

The amendment was agreed to.

Mr. ELDREDGE. Mr. President, in order to sense the Convention on one item in section 13, I would move to strike out all after the word "and," in line 6, down to and including the word "State," in the eighth line, and put in lieu thereof "the supreme court." I notice from this that it makes the secretary, governor, and treasurer, a board, and confers judicial power upon them. I move to suspend the rules.

Mr. EVANS (Weber). Mr. President, I think Mr. Eldredge does not understand that this only applies to the first election, and the judges of course cannot pass upon their own qualifications, and there must be some tribunal by which their election might be determined.

Mr. ELDREDGE. Mr. President, I say in answer to that, it is provided for the judges of the district court, and in placing it before the supreme court, certainly does not include the judges of the district court, because they form no part of it.

Mr. THURMAN. Would not that be depriving them of the right to appeal to that tribunal upon a very important question?

Mr. ELDREDGE. There is no pro-

vision for a court of that kind in any other part of the Constitution.

The motion was rejected.

Mr. THURMAN. Mr. President, I am going to renew my motion to strike out section 13. The district courts as they now exist under the territorial laws will have the right to pass upon the election of their successors, under the State government, and I see no use of having this in here, as if it was necessary to constitute some new tribunal to try this particular question. I move to suspend the rules, with a view to striking out that section.

The motion to suspend the rules was agreed to.

Mr. THURMAN. Mr. President, this section 13 provides for a new tribunal or special tribunal to determine a contest as to one particular office, on the theory that the district judges will not have the right to try their own cases. Now, if I understand it right, the judges of the district court of the Territory to-day will continue their functions long enough to determine contests, under existing laws, between their successors. That is the theory upon which I move to strike it out.

Mr. PETERS. Providing that one of the present incumbents be a candidate for office and he was one of the contestants, he could not very well pass on a case of that kind, could he?

Mr. THURMAN. We have three judges; any one of them is qualified to try a contest case between these candidates. Certainly all of the three judges are not going to be candidates under the new regime.

Mr. SQUIRES. Do not they all constitute a supreme court to which an appeal might be taken?

Mr. THURMAN. Yes; they do; but they will not constitute the supreme courts as it exists to-day, I take it, and be candidates also for district judges.

Mr. EVANS (Weber.) Mr. President, my understanding of this section was, that it was to prevent something which

might possibly occur in case the Constitution of Utah is not proclaimed before January 1st, 1896. There may be no contest at all between those judges until the proclamation is issued. On the 1st day of January, 1896, all of our present judges go out, and there may be no tribunal before whom these contested officers might try their cases, except before themselves. My idea was, it was the intention of the committee who reported this article to furnish some independent tribunal so that a man would not be a judge in his own case, and I think there is wisdom in the section. I think it does not go far enough, however. I think it ought to include supreme court judges, as well as district judges.

Mr. RICHARDS. Mr. President, I am in some doubt myself, as to the real necessity for this section, but I am not clear that it ought to be stricken out, and I shall therefore vote against striking it out.

The motion was rejected.

Sections 14, 15, and 16 were read.

Mr. ELDREDGE. Mr. President, I would like to have the house indulge in one thing further, that I think will reach their minds generally, and that is go back to article 22. I fear that is not just in the form yet to be entirely satisfactory, and to add after the word "lands" the words "and not contiguous."

Mr. JOLLEY. Mr. President, I think those words should be added to make that plain to the common people of the State.

Mr. RICHARDS. I understand the motion is to reconsider.

The motion was rejected.

The PRESIDENT. The secretary will now read the attesting clause.

The secretary read the same.

Mr. CANNON. Mr. President, I move to strike out the word "year," the last word.

The amendment was agreed to.

Mr. ROBERTS. I think, instead of

saying "done," we ought to say "adopted," and I therefore move that amendment.

The amendment was rejected.

Mr. SQUIRES. Mr. President, I call attention once more to those words upon page 61, "unless otherwise provided for." I understand that we are providing in this very section for these very things. There is no other place where it can be provided for. I move they be stricken out.

The motion was agreed to.

The PRESIDENT. The secretary will now call the roll on the adoption of the Constitution as a whole.

Mr. HART. Mr. President, we have passed this matter into the hands of the committee on engrossment and enrollment, by sections, without calling the roll. It seems to me it would be contrary to the way we have been doing it all along to call the roll at this time.

Mr. VARIAN. Mr. President, to save all question about it, I move the adoption of the Constitution as a whole.

The roll being called on the adoption the Constitution as a whole, the vote was as follows:

AYES—72.

Adams	Lambert
Allen	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Button	Lund
Buys	Maeser
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christiansen	Murdock, Beaver
Clark	Murdock, Summit
Coray	Page
Crane	Partridge
Cunningham	Peters
Cushing	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Preston
Eldredge	Richards

Emery	Roberts
Engberg	Robertson
Evans, Weber	Robinson, Kane
Evans, Utah	Robison, Wayne
Farr	Shurtliff
Gibbs	Snow
Hammond	Squires
Hart	Stover
Halliday	Symons
Hill	Thoreson
Howard	Thorne
Hughes	Thurman
Hyde	Varian
Johnson	Whitney
Jolley	Williams
Kimball, Salt Lake	Mr. President.

NOES—0.

ABSENT—34.

Anderson	Mackintosh
Corfman	Maloney
Creer	Miller
Francis	Moritz
Goodwin	Murdock, Wasatch
Green	Nebeker
Haynes	Pierce
Heybourne	Ricks
Ivins	Ryan
James	Sharp
Kiesel	Spencer
Keith	Strevell
Kearns	Thatcher
Kerr	Thompson
Kimball, Weber	Van Horne
Lewis	Warrum
Low, Cache	Wells.

EXCUSED—1.

Raleigh.

The president declared the Constitution adopted.

During the roll call the following statements were made:

Mr. Raleigh's name being called, and he being present, did not respond.

The PRESIDENT. The gentleman must vote aye or no.

Mr. RALEIGH. I have not voted at all yet.

Mr. BUTTON. Mr. President, has Mr. Raleigh been excused?

The PRESIDENT. Mr. Raleigh has

not been excused, and under the rules should vote aye or no.

Mr. THURMAN. Mr. President, I insist that he vote one way or the other, or give an excuse.

Mr. SQUIRES. Mr. President, I move he be excused.

Mr. ROBERTS. Let him be excused.

Mr. RALEIGH. I ask to be excused.

Mr. VARIAN. I move that the gentleman be excused.

The motion was agreed to.

The committee on printing reported as follows:

Salt Lake City, May 6, 1895.

MR. PRESIDENT:

Your committee on printing have received bids for the printing of 2,000 copies of the Constitution, and the Tribune job office being the lowest, we recommend that the contract be awarded to them.

Two thousand copies, estimated to make fifty-six pages, will cost \$173.40. Fifteen hundred copies, \$133.55.

We recommend that there be ordered 2,000 copies.

LAMBERT,
Chairman.

Mr. RICHARDS. Mr. President, I am informed by the committee on expenses that no definite action has been taken in regard to the distribution of the funds. I think that that action ought to be taken now, so that the checks may be prepared and the rolls ready when the members are ready to separate. I, therefore, move that the officers be first paid out of the funds remaining, and all the other expenses that have been incurred, and that the balance, if there should be any, be divided among the members for per diem.

Mr. THURMAN. Among all the members present.

Mr. SQUIRES. Mr. President, there is one objection to that motion. If any one has any hopes of Congress passing a deficiency bill to pay those delegates, they will lose all chance of it by dividing the money pro rata. That settles the bill. If we have our roll made, it is all right.

Mr. RICHARDS. Mr. President, I do not think that is so. I do not think that a distribution of the balance, whatever it may be, pro rata, will bar any future claims.

The motion of Mr. Richards was agreed to.

On motion, the Convention then, at 1:05 p. m., adjourned until to-morrow morning at 10 o'clock.

SIXTY-FIFTH DAY.

TUESDAY, May 7, 1895.

The Convention met pursuant to adjournment, at 10 o'clock a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Thorne.

Journal of the sixty-fourth day's session was read and approved.

Mr. EICHNOR. Mr. President, I move that Mr. Whitney, who is a member of the committee to draft an address to the people of the Territory of Utah, make a verbal report and submit the address as prepared by the committee.

The motion was agreed to.

Mr. WHITNEY. Mr. President, in accordance with the request of the Convention, I submit the report of the committee appointed to draft the address to accompany the Constitution. In this connection, I will make a request in advance that the committee not only have leave to file their written report hereafter, but also to make one or two slight amendments, which we already contemplate in the document itself.

The address was then read as follows:

TO THE PEOPLE OF UTAH:

The Convention assembled to frame a Constitution for the proposed State of Utah, after two months of earnest effort, present the result of their labors

for the consideration of the people of this Territory.

The ruling thought that actuated this Convention, from opening to close, was that under the direction and mandates of the Enabling Act, a Constitution must be framed that would secure to the people of Utah a wise, just and economical State government.

In this we believe we have succeeded, and we confidently submit to our fellow citizens the fruit of our deliberations, knowing that they will bear in mind the impossibility of our presenting any instrument that would not contain imperfections, inasmuch as the more than one hundred delegates who constructed it came together understanding little of each other, all more or less influenced by local ideas, and by impressions which the peculiar situation in this Territory for years past could not help but create and intensify. Nevertheless, it has been gratifying to note that there has probably been less partisan feeling and more unselfish unanimity of sentiment in this Convention than in any other political body of like character.

The inspiration behind the declaration of rights came from the great parent bill of rights framed by the fathers of our country.

The article on the proposed educational system has absorbed the best thoughts and efforts of the Convention, and draws around the public schools such protection and defense as will secure for them, it is believed, the steady upward progress which is the enthusiastic desire of this people.

The legislative article, while permitting future lawmakers to perform any needed thing, circumscribes their powers in a way to prevent either extravagance or the misuse of legislative authority.

The executive article defines clearly the prerogatives and powers of the several State officers, places all necessary authority in the hands of the

executive, and at the same time supplies all needed checks to prevent usurpation of power.

The judiciary article makes possible the conducting of the courts effectively by competent judges. It seeks to exalt the judiciary and yet bring the system within a reasonable expenditure of the people's money. The probate system has been abolished, but power is given the Legislature to restore it, if deemed necessary, or to adopt any other plan that may be wise or expedient.

The salaries of all officials have been marked down close to the danger line of extravagant economy.

We have provided to give equal suffrage to women.

We have inhibited for all time polygamous or plural marriages.

We have placed within safe limits the maximum of future taxation.

We have guarded against the possibility of any future great indebtedness of the State.

We have provided for the full development of our manifold industries, in such a way that in their expansion they will not feel any harsh friction from unjust laws.

We have provided for the correction of possible defects in the Constitution, either by amendments or by the enactment of statutes.

We have guaranteed perfect liberty of speech, freedom to the press, and absolute freedom of conscience.

We recommend our work to the gracious and generous consideration of the men and women of Utah, believing they will esteem it a fitting foundation on which to rear the structure of a glorified State.

If with statehood there will be a slight increase in taxes, the compensating advantages will cause that increased expense to be forgotten. We will be able to utilize the magnificent gift of over seven million acres of land from our generous government; we will be

able to secure capital for our mines; under the shield of statehood thousands of people will seek homes in our climate, assist to develop our wondrous and varied resources, and rejoice in the manifold blessings bestowed by nature upon our highly favored commonwealth.

When we reflect that this instrument will secure to us in its highest sense local self-government with State officers of our own selection, and courts for the swift, capable and economical administration of the laws by judges of the people's choosing; that it will give us a school system abreast of the foremost in the Union, with power to utilize the lands donated to our educational institutions; give us a voice in the election of Presidents, also two senators and one representative to present the claims of our new State in the Congress of the nation, and the star of Utah to the hallowed ensign of the Republic, bestow upon us full sovereignty with all that this majestic term implies, and thus draw to us capital and population and invest us with a dignity that can never attach to a territorial condition, with steady swelling confidence we submit this Constitution to the consideration of the people of Utah, in the certain belief that they will, by an overwhelming majority, endorse and ratify our work.

Mr. SQUIRES. Mr. President, I move the address be adopted.

Mr. WHITNEY. Mr. President, I trust the gentleman will include in his motion the granting of the request that I made, that the committee have power to make one or two slight amendments, before formally submitting the report.

Mr. SQUIRES. I will modify it in that way.

The motion was agreed to.

Mr. CANNON. Mr. President and gentlemen of the Convention, I think there is one item that we should attend to in connection with the publication of the proceedings of the Convention.

I believe that it would be well to have this done in good shape, and for that reason, and because I believe it should be edited by a man who is able to present the matter in a clear and intelligent way, I move the adoption of the following resolution:

Resolved, that Arthur Stayner, Esquire, be employed to take transcript furnished by the stenographer, and the minutes of the secretary, and from these compile for publication a volume or volumes, that shall be concise, comprehensive, and clear, at a compensation of \$500, to be paid in case Congress shall make an additional appropriation for the expenses of this Convention.

I will state, Mr. President and gentlemen, that I believe that is ordinarily done in conventions. There are many matters, that if we were to take them without arranging, they would not be clear; and if we have a volume published at all, I think it should be done in such a way that the public would get the benefit of it. I believe that Mr. Stayner is as well qualified for this work as any man whom we could employ, and I favor the adoption of the resolution for the reasons stated.

Mr. EICHNOR. Is it your idea to compress the debates into one small volume?

Mr. CANNON. Well, I have not gone over the debates. I have listened to them. I do not know whether we could get them into one volume or not, but I suppose you could.

Mr. EICHNOR. I should judge it would take about four.

Mr. CANNON. I think that there are a good many things that have been repeated that the editor would be perfectly justified in throwing out, and yet no material point would be lost. The purpose of having a stenographer was to get all the material points, and get them just exactly as they were presented.

Mr. BOWDLE. Where will the funds come from for obtaining the printing of these volumes?

Mr. CANNON. Mr. President, I believe that we cannot possibly publish these volumes unless Congress shall make an appropriation. It has been, I believe, the case in nearly every convention that has been held, that Congress has granted an additional appropriation, and I think that later on we should have a committee appointed, or possibly our committee on expenses, to investigate exactly the amount that has been incurred of the indebtedness and expense, so that if Congress ever does make an appropriation, the records will show to whom the funds should go. I think that should be done, but it will come in later, and this item, and also the expense of publication, binding, etc., would be included in that, doubtless.

Mr. BOWDLE. Does that include the the journal, or is the journal a separate matter?

Mr. CANNON. As I understand it, this would be the journal. The secretary's minutes would be taken and compared with the stenographer's notes, and from the two a volume would be compiled that would explain clearly that which went on in the Convention.

Mr. BOWDLE. Then, as I understand it, this is not the printing of the debates at all?

Mr. CANNON. Yes, sir; that will include the debates.

Mr. BOWDLE. My understanding of the proceeding in these matters is that the journal is printed in a separate volume almost invariably.

Mr. CANNON. It may be that that might be printed separately, but the whole matter would be under his supervision, and would be compiled for publication.

Mr. BOWDLE. Nothing would be published then, unless there is a new appropriation?

Mr. CANNON. No, sir; it could not be published without. I think that Mr.

Stayner might possibly be willing to undertake the work with the understanding of what the custom has been in the past, of Congress appropriating, especially as I understand that at the present time he is not employed.

Mr. HART. Mr. President, this is certainly one of the most remarkable propositions that we have had presented to us during the session. I must confess that it is surprising to me to have a plan of this kind come in in this shape. If the gentleman's notion was that such work should be done by some one single individual, aside from the membership of this Convention, he might at least have left a blank there, and let the Convention fill the blank, instead of proposing to do the whole thing by his resolution. I am not in favor of giving to any one man any such power as is proposed by that resolution. If we have any one to revise and compile this work, I am in favor of a committee consisting of more than one man, and of having those men appointed from the membership of this Convention. The gentleman says that Mr. Stayner is out of employment. That may be true. I saw him around the building yesterday. I do not know the particular business or qualification of the gentleman for this work. He may be qualified for all I know, but it seems to me, Mr. President, that this work, if done at all, should be done by a committee of members of this Convention. Here they propose by this resolution to place it in the power of one man to say what shall go into that record and what shall not, what speeches shall be included and what speeches shall be omitted. I am opposed to the resolution in its present shape.

Mr. KIMBALL (Salt Lake.) I would like to ask, is it contemplated that Mr. Stayner would go ahead with this work, trusting to the appropriation being made, and in the event of there being no appropriation, that he would trust to getting his compensation from

the sale of the book, having a copyright or something of that kind?

Mr. CANNON. On that point I would simply state that the purpose is as explained here, not to have Mr. Stayner go ahead, except with the expectation of getting it from Congress.

Mr. CHIDESTER. Mr. President, I hardly think that the resolution covers the ground. I think there will be more than one volume; at least there will be a volume of the proceedings and then a volume of the debates, and perhaps more. I favor the proposition, though, in the main, that one can do it cheaper than to have a committee do it. I believe, however, it would be proper to have it under the supervision of a committee, appointed from members of this Convention, but one man would do it cheaper than a committee would do the work, therefore, I would favor this resolution, with such modifications as would meet the circumstances of the case.

Mr. RALEIGH. I will ask if it is not contemplated publishing the journal of our proceedings?

The PRESIDENT. It has been the custom in other states.

Mr. CRANE. Mr. President, there seems to be a misunderstanding or misapprehension in regard to this matter. The debates here are an entirely different matter from the journal of the Convention. The journal of the Convention has been published here every morning. I hold in my hand the journal of the day's proceedings of South Dakota, the constitution, the enabling act, etc. That makes a very small book. We have had a good many debates here, and while I believe that Mr. Stayner is thoroughly competent to do this work, it seems to me that it should be under the supervision of a committee appointed or elected from this body. I do not think the journals and debates should be placed in the hands of any one individual. It would be an exercise of authority not contemplated by

this Convention. So far as an appropriation by Congress, I feel confident that if this Convention should ask our delegate to have an appropriation to cover the deficiency, we would get it. It has been done frequently by states which have adopted constitutions, and Utah would receive the same consideration at the hands of Congress.

Mr. CANNON. Mr. President, with the consent of my second, I would like to amend this resolution, adding to the end of that the words, "the work to be done under the supervision of the committee on compilation and arrangement."

Mr. EVANS (Utah). Mr. President, so far as I am concerned, I am not prepared to vote, and by that vote to say that we have not men in this Convention who are competent to transact that business for us, and I am opposed to going upon the outside, as long as we can get men in this Convention, who are members of this Convention, to do that work. I shall vote against that resolution, even with the amendment. I am in favor, however, of some provision being made for the publishing of the proceedings of this Convention.

Mr. KERR. Mr. President, it seems to me it would be much better to so amend that resolution as to provide for the publication of the journal and proceedings of the Convention, under the supervision of a committee named by this Convention, leaving it with that committee as to what assistance should be employed in this work. I do not think that it is proper that we should name a particular individual to do this work under the supervision of any committee even, named by the Convention.

Mr. WHITNEY. I would like to ask if Mr. Stayner has agreed to take his compensation in that way—conditionally?

Mr. CANNON. Mr. President, I will state that nobody has been authorized to negotiate with Mr. Stayner. I under-

stood from talking with several members of the Convention that Mr. Stayner was capable of performing such work.

Mr. WHITNEY. There is no doubt of that.

Mr. CANNON. And I asked Mr. Stayner how he was situated, and he stated that at the present time he was not employed and he could undertake the work. I told him the probability was that if the work were authorized to be performed, it would be as stated here, conditionally, and nothing would be paid unless it was appropriated by Congress.

Mr. HART. I would like to ask the gentleman where he gets the estimate of five hundred dollars, as a proper compensation for this work?

Mr. CANNON. Mr. President, I would state that that was fixed by conversing with the stenographer, who is very well posted on that kind of work, and he told me that he estimated it would take at least ninety days to perform the work, and if the gentleman should work ninety days, and have the ability that Mr. Stayner possesses, he would be worth at least six dollars a day, which would amount to five hundred and forty dollars, but taking it in a lump sum, I thought if five hundred dollars were appropriated, it would probably cover the amount.

Mr. FARR. Mr. President, my understanding of the duties of the stenographer was that he furnishes a copy of what he has drawn off of the day's transaction, and has kept an account of everything that has transpired of the whole session, and we have a copy of the journal already on hand. The duty of a man to arrange this matter would be to take them and get them in proper shape to be printed. I do not understand that this five hundred dollars is going to pay the printer for the publishing of all these books. If that is the case it is very cheap. I understand there isn't anyone who will undertake this job unless they take the

risk of getting it out of Congress. I cannot conceive that it is going to be a very expensive job to take the stenographer's report that is all down plain, that we pay him for—that is a part of his duty, that we pay him for from day to day. Of course, if they want a committee appointed from this body of men, the committee suggested by Mr. Cannon is a very appropriate committee. It can be done without much expense. I am certainly in favor of this work being done as it should be done. Every member would like a copy of the doings of this Convention, and a good many gentlemen here would like a copy of their speeches, no doubt, and I would like to have them all gratified, but I am not willing to put my hand in my pocket to pay for it. I am willing that Congress should do it, if they will. I think we have got as good a Constitution as there is anywhere. I am not ashamed of it. I would like to see it published. I want to say in regard to Mr. Stayner, I am perfectly acquainted with him. I know him to be a competent man. I do not know a man more competent than he is, and he would get it out in good shape, and if he is willing to take the risk of getting his pay from Congress, why, I should say, he is the man to employ under the supervision of this committee.

Mr. CHIDESTER. Mr. President, I wish to amend the resolution by adding after the word "volume," the words "or volumes of the whole of the stenographer's report."

Mr. CANNON. I accept that amendment.

Mr. THORESON. Mr. President, I wish to offer the following as a substitute for this resolution and the amendments:

Resolved, That a committee of five be appointed by this Convention to compile and publish, as early as appropriations for that purpose can be obtained from Congress, the journal, Constitution, and debates in full, of the Convention, and

the secretary and stenographer are hereby ordered to furnish a correct transcript of their work to said committee.

Mr. SQUIRES. I would like to ask the mover of that substitute, if he contemplates any compensation to this committee?

Mr. THORESON. An appropriation for that purpose can be obtained.

Mr. FARR. Mr. President, I propose if Congress does not pay them, we put our hands in our pockets and pay them.

Mr. RALEIGH. Mr. President, I have an amendment to that, that the words "from Congress" be inserted after the word "appropriation."

Mr. THORESON. I accept of that amendment. I believe Congress will do it, but I think that even if Congress did not the members of this Convention would, even if they had to go down in their own individual pockets—at least the journal and the Constitution should be published.

Mr. IVINS. I make the suggestion that the committee be appointed by the president.

Mr. HART. Mr. President, I move as an amendment to the substitute offered by the gentleman from Cache, to strike out the words, "a committee of five," and insert in lieu thereof "the committee on compilation and arrangement."

Mr. THORESON. I accept that amendment.

Mr. Evans, of Utah, offered the following substitute:

Resolved, that a committee of three be appointed to supervise the printing of the journal and proceedings of this Convention, to be paid for out of any moneys that may be appropriated by Congress to pay any deficit incurred by this Convention.

Mr. VARIAN. Mr. President, I want to suggest to these gentlemen that they ought to fix the compensation in there, in order that the precise amount of the deficiency may be ascertained. If this

Convention does not decide what its expenses shall be definitely and certainly, no Congress will make any appropriation, because it will be uncertain how much is needed. A convention should, in passing a resolution of this kind, fix the sum, and then it goes in to swell the aggregate of the deficiency.

Mr. SQUIRES. Mr. President, I move that the sum of one thousand dollars be inserted as compensation.

Mr. EVANS (Utah). I will accept that.

Mr. BOWDLE. Mr. President, I will move as an amendment, that the sum of five hundred dollars be inserted, the same as in Mr. Cannon's motion.

Mr. HART. Mr. President, I prefer the substitute offered by the gentleman from Cache, for the reason that that provides for the committee on compilation and arrangement to supervise this work. I think that a good solution of this whole thing would be to pass the suggestion or amendment that Mr. Varian proposes with Mr. Thoreson's amendment, making the committee on compilation authorized to supervise this work. Let them employ whom they may, and then fix the compensation in there at five hundred or a thousand, or whatever sum we may agree upon.

Mr. EVANS (Utah). Mr. President, if the substitute shall prevail, offered by myself, the president, under our rules, will make the appointment of that committee. I think three is plenty to do that work. I believe they will be able to do it just as well, and do it at less expense, and there is no reason why the president could not appoint the number from them.

Mr. PARTRIDGE. Mr. President, I do not understand that the substitute of Mr. Evans provides specifically for the accomplishment of the work, only a committee to supervise the work. It should state specifically that it is to include the printing and publishing.

Mr. EVANS (Utah). Mr. President,

that is true, but they would naturally have to arrange it before they would do that.

Mr. FARR. I would inquire how many copies the gentleman wants to have printed.

Mr. EVANS (Utah). Whatever they may deem proper.

Mr. FARR. It will make quite a difference in the expense. I have not seen anything in all the speaking yet that will be any improvement on Mr. Cannon's resolution. It is concise, and it places it in the hands of a man that I know is competent, and one man can arrange all that under the supervision of the committee, with less expense than to have that committee doing it.

Mr. CANNON. Mr. President and gentlemen of the Convention, in bringing this matter up, I had no special desire to name any particular man. As far as I am personally concerned, I do not care a fig whether Mr. Stayner is employed or not, but I believe it would be better to place it in the hands of a man who is pretty well known to the Convention. Whichever committee is appointed to take charge of the work can simply supervise it. They must leave it to some one man who will go over the matter and present it in the best possible form. I believe that we cannot select a man better qualified for this work than Mr. Arthur Stayner. The idea, however, would not be repugnant to me at all to leave it entirely to the committee on compilation and arrangement. I shall certainly vote against the substitute of the gentleman from Utah County and in favor of the Thoreson amendment, if I cannot carry the original proposition, but I believe on the score of economy it would be better to use that, because it only appropriates five hundred dollars. I think the work can be done for that, and will be done quite as well as if we leave it to a committee of five, and it will be then under the supervision of that committee anyway.

Mr. HART. Would not the committee on compilation and arrangement, if Mr. Thoreson's amendment should prevail, have the authority to engage Mr. Stayner?

Mr. CANNON. They certainly would, but we have the same authority. The part is not greater than the whole.

Mr. HART. You concede that some committee should have supervision of this matter?

Mr. CANNON. Yes, sir.

Mr. HART. Supposing we name here some man and his work is not satisfactory to the committee, what kind of a situation are you in then? Will your supervising committee have the right to discharge the man the Convention names?

Mr. CANNON. Mr. President, I believe if anything should happen that the gentleman did not do his work or happen to die, the committee would have full power to act.

Mr. KERR. Mr. President, if Mr. Thoreson's amendment should prevail and this matter is left to the committee on compilation and arrangement, that committee could use such portion of the thousand dollars appropriated as may be necessary. I certainly believe that we should leave it entirely with the committee on compilation. I have the greatest confidence in the committee and do not believe they would use more than necessary.

Mr. RALEIGH. Mr. President, I do not hear any number of copies specified in any of those.

Mr. SQUIRES. This proposition does not go to the printing, as I understand it, and I was going to suggest, to make that plain it should say that one thousand dollars is hereby appropriated for the labor to be performed by the committee.

The amendment of Mr. Bowdle was rejected.

The substitute of Mr. Evans, of Utah, was rejected.

The PRESIDENT. The question now

recurs on the substitute of Mr. Thoreson.

Mr. THORESON. Mr. President, in offering my resolution I originally had a committee of five to be appointed, and I would fix the amount for the expense of said committee and their work at one thousand dollars, and would like that to be added to the resolution.

Mr. EVANS (Utah). Mr. President, if I remember correctly, we provided yesterday for the publishing of the Constitution. I move that that be stricken out.

Mr. THORESON. The journal would not be complete without the Constitution being published with it.

Mr. CHIDESTER. Mr. President, as I understand it, by that resolution, we propose to pay them now. There is nothing said in that with reference to any future appropriation.

Mr. SQUIRES. Mr. President, before a vote is taken on this proposition, I must call attention to one thing. In employing the stenographer, we employed him to furnish a transcript of his notes to the secretary of the Territory. He is not expected, for the compensation we have already agreed to give him, to furnish an extra copy for the use of this committee. Now, it may require a large share of that thousand dollars for him to furnish an extra copy for the committee. Now, some provision ought to be made for extra compensation if he is to furnish that copy.

Mr. THORESON. Mr. President, if I remember the wording correctly, the transcript was to be furnished for the use of the committee. Afterward the same transcript can be used.

The substitute of Mr. Thoreson, as amended, was adopted.

Mr. GOODWIN. Mr. President, I move the reconsideration of that vote, and that the amount be put at fifteen hundred dollars, to include the copy to be furnished by the stenographer.

Mr. VARIAN. Mr. President, as I

understand it, that thousand dollars only applies to the compensation of the committee.

The PRESIDENT. That is all.

Mr. VARIAN. The preceding paragraph in the resolution contemplates the publishing and printing, and of necessity, I presume, must include the expense of getting the copy for the printer.

Mr. GOODWIN. Mr. President, the reason of my motion was that the Convention has seemed to think that the stenographer would naturally supply this copy. It was only in his contract to supply a copy for the secretary of the Territory.

The PRESIDENT. The explanation was made, Judge, that the committee could use the copy that went to the secretary of state.

Mr. GOODWIN. Yes, if he will permit it. If that copy goes through the hands of the printer, it will not be a very lovely looking document to file away.

Mr. HART. Mr. President, I understood there were two copies contracted for. The stenographer says not. He says there was the one copy only.

The motion to reconsider was agreed to.

The motion to fix the sum at fifteen hundred dollars was agreed to.

Mr. THURMAN. Mr. President, I ask unanimous consent to offer one word in addition as an amendment to the miscellaneous article. In section 2, "real and personal estate of every female acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance, or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations, or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried." I move after the words "may be" to insert the word "conveyed." The effect of the amendment is

to give married women the right to convey their property by a deed as well as to bequeath or devise it by a will. "Convey" is omitted in the article as it stands.

The PRESIDENT. There is no objection, so we will accept it.

Mr. EICHNOR. Mr. President, I offer the following resolution and move its adoption:

Resolved, that the chairman of the committee on printing is hereby authorized to supervise the printing of two thousand copies of the Constitution, and that the said chairman shall send fifteen copies to each member of the Convention, five copies to each county court, one copy to each territorial officer, and two copies to each newspaper in the Territory, and the remaining copies to be deposited with the secretary of state, subject to the order of the president of the Constitutional Convention.

Mr. L. LARSEN. Mr. President, I would made an amendment to the motion, that copies be sent to the municipalities.

Mr. KERR. I would like to ask the chairman of the committee on printing if he knows what three thousand copies of the Constitution would cost?

Mr. LAMBERT. We did not ask for more than two thousand, and that was the amount set apart and appropriated. It is too late now to change it.

Mr. LARSEN. Mr. President, I would make an amendment that two copies be sent to each municipality.

Mr. LAMBERT. Mr. President, I am opposed to the amendment of Mr. Larsen, because it is contemplated in there that the members, being distributed all over the Territory, could furnish copies to the municipalities, and there are not copies enough, unless we change the arrangements, to do so.

Mr. Eichnor accepted the amendment of Mr. Larsen.

Mr. LUND. Mr. President, I believe the copy of the Constitution, as the secretary will present it to the Tribune job printing office, is perfect, and

they can print that without making any mistakes, and then they could express it collect on delivery to the members without any additional expense. We closed up our books yesterday, and if you do this, we would like to have you tax yourselves to pay the little bill.

Mr. KIMBALL (Salt Lake). Mr. President, I move an amendment to this resolution, to allow the chairman of this committee, Mr. Lambert, for five days' compensation, in the event of appropriation from Congress that he be paid.

Mr. CANNON. Mr. President, I hope Mr. Larsen will withdraw that amendment, for the reason stated by the chairman of the committee on printing. I do not think we will have copies enough. Each member has fifteen copies, and with those fifteen copies he can certainly distribute them to his neighboring towns, and all the towns around it.

Mr. LARSEN. Mr. President, I would prefer that the members have less copies, and have the municipalities have two.

Mr. HART. Mr. President, I will say that no arrangements have been made for the printing of the address with the Constitution.

Mr. LAMBERT. It was included in the estimate as a part of the Constitution.

Mr. EICHNOR. Mr. President, with the consent of my second, I will change the number from fifteen to each delegate to ten. Then there will be enough.

Mr. HART. Mr. President, I move an amendment to that, that ten be changed to fifteen. I think the members of this Convention can distribute that Constitution as well as some one individual. They live in all parts of the Territory, and they can better distribute it.

The amendment of Mr. Hart was agreed to.

The resolution as amended was adopted.

Mr. Thurman offered the following resolution, and moved its adoption:

Resolved, that the committee on compilation and arrangements ascertain and report to this Convention, as soon as possible, the full amount necessary in addition to the sum already appropriated by Congress, to complete the work of this Convention, as provided by its orders and resolutions, and that said committee draft a memorial to Congress for the amount of said deficiency, and present the same with their report herein.

Mr. GOODWIN. Mr. President, I move to transfer that to the committee on finance.

Mr. HART. Mr. President, I am opposed to the amendment of Judge Goodwin. The committee on compilation and arrangement consists of a greater number of members than this other committee, and being stronger in numbers, I think that an important piece of work of this kind might better be transacted by them. I am, therefore, in favor of the original resolution.

Mr. CRANE. I would like to ask if this resolution contemplates the immediate report to the Convention of the expenses that are to be incurred.

Mr. THURMAN. Not necessarily. I suppose any time before we adjourn. That was what was in my mind when I wrote it. Now, I favor the resolution as offered by myself. I had in mind that there are gentlemen upon that committee of compilation and arrangement, who can write so elegantly, and present matters so plausibly, that even Congress could not resist any appeal that might be made by those gentlemen, and in saying that, I mean no disparagement to the able committee on contingent expenses.

Mr. GOODWIN. Mr. President, if that is to go, I move that Mr. Thurman be also added to that committee. Mr. President, the resolution is an impossibility. This Convention will probably adjourn within the next three weeks, and the amount cannot possibly be ascertained. They might fix

the resolution, and leave it with the committee, when finally completed, to publish the amount, and draft a memorial. That is all right, but we cannot get it in time to report to this Convention.

Mr. THURMAN. I would like to ask Judge Goodwin why they cannot?

Mr. GOODWIN. Will the secretary please read the resolution again?

Mr. THURMAN. It says the amount as provided by the orders and resolutions of this body. Now, certainly, we will make those orders and resolutions before we adjourn, and it only has to be approximated by that committee.

Mr. WHITNEY. Mr. President, it seems to me that the business mentioned in this resolution should be divided between two committees, or else that the two committees undertake it—the committee on compilation and arrangement, and the committee on expense. There are two different matters, and the committee on compilation and arrangement have already one report on their hands which is not yet completed. We have not time to report by to-morrow in this matter.

Mr. RALEIGH. Mr. President, I would suggest that Mr. Lund be connected with that committee.

Mr. GOODWIN. Mr. President, I suggest that it be changed, that the committee on finance make this report, and then if it is desired to have the other committee draft a memorial, why, if Mr. Thurman is added, there will be no trouble.

Mr. BOWDLE. Mr. President, I do not understand how they are going to arrive at how much this printing will be. As I understand the resolution that we have passed, the printing of the debates and of the journal will all have to be provided for, and all put in the same appeal that we want to send to Congress. I do not see how they can know just how much that is going to be.

Mr. RICHARDS. Mr. President, I

move as an amendment that this duty be required of the two committees, the committee on compilation and revision and the committee on expenses, that they be associated for that purpose.

The amendment was agreed to.

The resolution as amended was adopted.

Mr. Cannon offered the following resolution and moved its adoption:

Resolved, That the committee on printing obtain and report to this Convention, bids for printing and binding two thousand copies of the proceedings of this Convention.

Mr. CANNON. Mr. President, this was offered before the resolution of Mr. Thurman had been read. I think the information should be obtained by the committee on printing and turned over to the other committee. I do not know whether it is necessary to present it here or not.

Mr. LAMBERT. Mr. President, this resolution, instructing the committee on printing to report to this Convention, cannot be complied with. We would have to have all the notes of the stenographer and have to measure all those notes and find out how much matter there is, before any estimate of the amount of expenses could be made. That thing would be impossible by to-morrow night.

Mr. SQUIRES. I would like to inquire if Mr. Cannon's resolution points to the printing of two thousand copies of the debates? That will just swamp Congress. It is in a pretty hard hole now to pay its running expenses.

Mr. RICHARDS. I desire to ask the gentleman from Salt Lake who offered this resolution, if it is not all covered by the resolution we have just adopted? I think it is.

Mr. CANNON. I stated it might probably be covered. I will withdraw it.

Mr. SQUIRES. Mr. President, I trust that the figures stated in this resolution will not be used as a guide by the committee on compilation and expenses in

estimating the cost of printing. Two thousand copies of that journal, will be a pretty expensive luxury—of the debates.

Mr. CANNON. I would like to ask the gentleman if he is going to have any copies at all.

Mr. SQUIRES. I expect we will have some copies.

Mr. CANNON. The expense of paper and printing after the press work is set up is an inconsiderable amount.

Mr. CRANE. Mr. President, we have here a lady to-day who is well known, not only through the western portion of the Union, but throughout the nation as one of the most gifted orators in the country. She kindly consented to address this Convention for fifteen or twenty minutes with their permission. I refer to Miss Clara Foltz, of San Francisco. I move that the lady be requested by the chair to do so.

The PRESIDENT. Mr. Crane and Mr. Thurman will please lead the lady to the platform.

The lady was escorted to the platform by Delegates Crane and Thurman, and delivered an address.

The Convention then, at 12:20 p. m., adjourned until 9 o'clock to-morrow morning.

SIXTY-SIXTH DAY.

WEDNESDAY, May 8, 1895.

Convention assembled pursuant to adjournment at 9 o'clock a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Farr.

The journal of the sixty-fifth day's session was read and approved.

The PRESIDENT. Gentlemen, what will you do with the report of the committee on address?

Mr. BUTTON. Mr. President, I move it be perfected in the minutes of to-day,

with the committee's report, striking it out of yesterday's minutes.

The motion was agreed to.

The report of the committee on engrossment and enrollment was read as follows:

Convention Hall, May 8, 1895.

MR. PRESIDENT:

Your committee on engrossment and enrollment beg leave to report that we have completed our labors and submit the Constitution as engrossed, with the recommendation that the clerk who wrote it be permitted to read the same.

Respectfully,

MONS PETERSON,
Chairman.

Adopted.

Mr. Cannon moved that the secretary be instructed to call upon any members who have not handed him their contributions for relief sufferers from Wyoming coal mine disaster, and to forward amount collected at once, under direction of the President of the Convention, to those for whom the contributions were intended.

Carried.

Special committee on drafting an address to the people of Utah, to accompany the Constitution, reported as follows:

TO THE CONVENTION:

Gentlemen:—Your committee appointed to draft an address to accompany the Constitution, report respectfully the following.

JOHN HENRY SMITH,
C. C. GOODWIN,
O. F. WHITNEY,
CHARLES CRANE,
W. J. KERR,
HEBER M. WELLS,
SAMUEL R. THURMAN,
THEO. BRANDLEY.

TO THE PEOPLE OF UTAH:

The Convention assembled to frame a Constitution for the proposed State of Utah, after two months of earnest effort, present the result of their labors for the consideration of the people of this Territory.

The ruling thought that actuated this Convention, from opening to close,

was that under the direction and mandates of the Enabling Act, a Constitution must be framed that would secure to the people of Utah a wise, just and economical State government.

In this we believe we have succeeded, and we confidently submit to our fellow citizens the fruit of our deliberations, knowing that they will bear in mind the impossibility of our presenting any instrument that would not contain imperfections, inasmuch as the more than one hundred delegates who constructed it came together understanding little of each other, all more or less influenced by local ideas, and by impressions which the peculiar situation of this Territory for years past could not help but create and intensify. Nevertheless, it has been gratifying to note that there has been less partisan feeling and more unselfish unanimity of sentiment in this Convention than in any other political body of like character.

The inspiration behind the declaration of rights came from the great parent bill of rights framed by the fathers of our country.

The article on the proposed educational system has absorbed the best thoughts and efforts of the Convention, and draws around the public schools such protection and defense as will secure for them, it is believed, the steady upward progress which is the enthusiastic desire of this people.

The legislative article, while permitting future lawmakers to perform any needed thing, circumscribes their powers in a way to prevent either extravagance or the misuse of legislative authority.

The executive article defines clearly the prerogatives and powers of the several State officers, places all necessary authority in the hands of the executive, and at the same time supplies all needed checks to prevent usurpation of power.

The judiciary article makes possible

the conducting of the courts effectively by competent judges. It seeks to exalt the judiciary and yet bring the system within a reasonable expenditure of the people's money. The probate system has been abolished, but power is given the Legislature to restore it, if deemed necessary, or to adopt any other plan that may be wise or expedient.

The salaries of all officials have been marked down close to the danger line of extravagant economy.

We have provided to give equal suffrage to women.

We have inhibited for all time polygamous or plural marriages.

We have placed within safe limits the maximum of future taxation.

We have guarded against the possibility of any future great indebtedness of the State.

We have provided for the full development of our manifold industries, in such a way that in their expansion they will not feel any harsh friction from unjust laws.

We have provided for the correction of possible defects in the Constitution, either by amendments or by the enactment of statutes.

We have guaranteed perfect liberty of speech, freedom to the press, and absolute freedom of conscience.

We recommend our work to the gracious and generous consideration of the men and women of Utah, believing they will esteem it a fitting foundation on which to rear the structure of a glorified State.

If with statehood there will be a slight increase in taxes, the compensating advantages will cause the increased expense to be forgotten. We will be able to utilize the magnificent gift of over seven million acres of land from our generous government; we will be able to secure capital for our mines; under the shield of statehood thousands of people will seek homes in our climate, assist to develop our wondrous

and varied resources, and rejoice in the manifold blessings bestowed by nature upon our highly favored commonwealth.

When we reflect that this instrument will secure to us in its highest sense local self-government with State officers of our own selection, and courts for the swift, capable and economical administration of the laws by judges of the people's choosing; that it will give us a school system abreast of the foremost in the Union, with power to utilize the lands donated to our educational institutions; give us a voice in the election of Presidents, also two senators and one representative to present the claims of our new State in the Congress of the nation, add the star of Utah to the hallowed ensign of the Republic, bestow upon us full sovereignty with all that this majestic term implies, and thus draw to us capital and population and invest us with a dignity that can never attach to a territorial condition, with steady swelling confidence we submit this Constitution to the consideration of the people of Utah, in the certain belief that they will, by an overwhelming majority, endorse and ratify our work.

The PRESIDENT. I will say to the Convention that the silver congress is to be held in this room, and it has been asked of me if the Convention were willing that this bunting and the flags that are here should remain during that time.

Mr. GOODWIN. Mr. President, as I understand it, the county and city of Salt Lake tendered this hall to this Convention free of rent, and I think it would be a graceful thing for the Convention, if they have an ownership in the decorations, to tender them to the city and county as a little mark of appreciation, and I make a motion to that effect.

Mr. BOWDLE. Mr. President, I was talking with the sergeant-at-arms about the decorations. He says that there are none of the decorations belonging

to the Convention, excepting the small flags.

Mr. CANNON. Mr. President, Mr. Chidester has a resolution, which if read and slightly amended, would cover the ground of Mr. Goodwin's motion.

Mr. Chidester offered the following resolution:

Be it resolved, that the Convention tender a vote of thanks to the county officials of Salt Lake County for their kindness in granting to the Convention the use of the county building during the session of the Convention.

Mr. RICHARDS. Mr. President, I move to amend that resolution by inserting the words "and city," after the word "county."

Mr. CHIDESTER. I accept that amendment.

Mr. HART. Mr. President, if there was any way of thanking them in a more substantial manner, I would be in favor of doing so. I do not know whether this appropriation anticipated from Congress could be made broad enough to include compensation for the use of this building or not. If it could, I would be in favor of it.

The resolution was adopted.

Mr. Crane offered the following resolution and moved its adoption:

Resolved, that the Convention present to our honorable president, John Henry Smith, the large flag in the center of the Convention hall, as a token of the high esteem in which we, as delegates, hold him.

The PRESIDENT. We have just disposed of it. That is all right.

Mr. RICHARDS. I move that the president take the will for the deed.

The PRESIDENT. What will you do with this resolution of Mr. Crane?

Mr. CRANE. Mr. President, if you have disposed of these ornaments, I will withdraw my resolution. It has been suggested by a number of the delegates here that they would like to have some little souvenir of the moments that they have spent in this building.

There are just 108 flags and there are 107 delegates. I thought it nothing more than proper to give this large flag to the president and the small ones to the members.

Mr. ROBERTS. Mr. President, I hope they will manage to give us a cake of ginger bread with it, or a bunch of fire-crackers.

The committee on engrossment and enrollment reported as follows:

MR. PRESIDENT:

Your committee on engrossment and enrollment beg leave to report that we have completed our labors, and submit the Constitution as engrossed, with the recommendation that the clerk who wrote it be permitted to read the same.

The report was adopted.

At 9:40 a. m. the engrossed copy of the Constitution was taken up for final reading, which reading was completed at 11:55 a. m.

During the reading the following proceedings took place:

Mr. HART. Mr. President, I would like to ask if the clerk has the corrections suggested for section 9 of Article IV? As I have the section it is this way: "Municipal and school officers shall be elected at such times as may be provided by law."

Mr. RICHARDS. That is the way it passed the Convention.

Mr. KERR. The secretary's copy gives the amendment as follows: "Municipal and school officers, as may be provided by law."

Mr. RICHARDS. Mr. President, that is not the way it passed the Convention. Mr. Thurman proposed the amendment, and I made a note of it at the time.

Mr. HART. I took the amendment down as it was given.

The PRESIDENT. Have you any motion to make?

Mr. RICHARDS. No, we will be governed by the fact.

Mr. BUTTON. Mr. President, I do

not see as it makes any difference. I move that it be as the clerk has it written.

Mr. RICHARDS. Mr. President, it does make a difference. There is a difference in the meaning and in the sense, and it should be enrolled as it passed this Convention, and I offer as an amendment, that it be made to read: "Be elected at such times as may be provided by law." That is the way it did pass the Convention.

Mr. MURDOCK (Summit). Mr. President, in my copy I have it as stated by Mr. Hart; "at such times," is not here.

Mr. CHRISTIANSEN. Mr. President, I have it "at such times as may be provided by law."

Mr. ROBERTS. Mr. President, it occurs to me that the difference is so slight that it amounts to nothing, and I do not think it amounts to enough to change that engrossed copy. I think the words "as may be provided by law," will relate to the time as well as any other detail, and I do not think it is necessary to go to work and require that part to be written over again.

The PRESIDENT. We evidently have not unanimous consent, so that the secretary will continue reading.

Mr. THURMAN. Mr. President, just let me say one word on this. There is a vital distinction between the way this was passed and the way it was written. "Municipal and school officers shall be elected as may be provided by law." Now, that leaves the whole question of election, by whom they may be elected, the qualifications of the voters, and everything to the Legislature. That is not what this Convention meant. They only meant to leave the time of the election, because it was the time of elections that we were dealing with on the other officers. As to these other officers, it was intended that the time of their election should be left to the Legislature, and that only. Now, if the Convention will think a

moment, you will remember that that is the truth of it.

Mr. RICHARDS. Mr. President, I insist that it does not require unanimous consent. If the chair so holds, I desire to take an appeal from that. A majority of this Convention, or certainly two-thirds, have a right to change the rule.

The PRESIDENT. It will take two-thirds.

Mr. SQUIRES. Mr. President, I agree that this article should be changed to read as it passed in the Convention, because the meaning is undoubtedly different from that contained in the original matter. There is no blame to charge to the clerk, because he followed the copy, but I do not see why any suspension of the rules is needed to make this correction, because the intention is to have the engrossed copy conform to the section as passed.

The motion was agreed to.

The PRESIDENT. The change will be made.

The reading of the Constitution being completed, the following proceedings took place:

Mr. RICHARDS. Mr. President, I move that the Constitution be now adopted, and the roll be called and each delegate sign the Constitution as his name is called, and that absent members be permitted to sign at any time before the 15th day of October, 1895.

The motion was agreed to.

The roll being called on the final adoption of the Constitution, the result was as follows, each member signing the Constitution as his name was called:

AYES—99.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser

May 8.

STATEMENT OF EXPENDITURE.

1851

Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Preston
Engberg	Raleigh
Evans, Utah	Richards
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Green	Ryan
Hammond	Shurtliff
Hart	Smith
Haynes	Snow
Holladay	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
Johnson	Thoreson
Jolley	Thorne
Kiesel	Thurman
Keith	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams.
Larsen, L.	

ABSENT—8.

Evans, Weber	Peters
Heybourne	Ricks
James	Sharp
Miller	Thatcher.

The committee on accounts and expenses presented the following report, which was adopted:

Convention Hall, May 8, 1895.

Mr. President and Members of the Convention:

We, your committee on accounts and expenses, beg leave to make our final report. Herewith we present a detailed statement showing expenditure of the thirty thousand dollars appropriated by Congress:

Mileage	\$ 2,522.25
Per diem of members	11,856.00
Per diem of members	6,360.00
Per diem of members	1,872.50
Per diem of officers	2,222.00
Per diem of officers	1,275.00
Per diem of officers	1,863.00
Special per diem, Christensen, Rapp, Smith	87.00
Stationery, printing, etc.	1,941.15
Total	\$29,998.90
Balance	1.10
	<hr/>
	\$30,000.00

Revising and preparing the stenographer's notes for the printer will cost as per yesterday's resolution \$ 1,500.00
The amount yet due to the members 8,009.50

We are unable to find what will be the cost of printing the journal of proceedings. We, therefore, recommend that this matter be left to the committee on compilation and arrangement, with power to act. It might be advisable for the Convention to say how many copies shall be published.

We suggest that the Convention might pass a resolution asking Congress for an appropriation to cover this deficiency.

A. C. LUND, Chairman,
A. J. CUSHING,
JOHN R. BARNES.

Mr. JOLLEY. Mr. President, I now move you that we hear from our honorable governor.

The motion was agreed to.

Governor West then addressed the Convention as follows:

Mr. President and gentlemen of the Convention, I assure you that when I came to this house this morning I did not expect to be called upon to say a word, and in fact if I had known that I should, while it is a very great and distinguished pleasure to be here, to see the last act in the making of this Constitution, I believe I would have been deterred. I do not recall just this min-

ute how many days you gentlemen have been here engaged in the making and listening to speeches. Sixty-six, I am informed. It seems to me that in that time you certainly have got enough of talking, but as you have done me the honor to call upon me, for which I thank you very much indeed, I do wish to say now, that your labors, in my judgment, have been brought to a successful conclusion.

While I might not agree with everything that is incorporated into the Constitution, as I have no doubt many of you do not, still, as a whole, I fully and cordially, as the ninety-eight gentlemen, who have been engaged in making it, vote aye, and in voting aye, I believe I voice the sentiments of the people of Utah almost unanimously. [Applause.] As you had differences of opinion as to what ought to go into the Constitution, as you discussed those questions, there was heat and animation in the discussion, and some probably thought at the time, "I will not vote for a Constitution, if such a principle is put into it." But as time has gone on, as you have gone from this house, and at night upon your pillows thought of the great work that you were doing, I am glad that when you come here upon the final vote you come with a unanimity that bespeaks the adoption of the Constitution, and the successful inauguration of Utah as one of the great States of the Union. And as opposition and as the differences disappear, as the frost does by the bright glance of the sun, in your mind, so it will throughout the Territory, with the people, and they will rally to your support, they will endorse your work, as well and faithfully done. And there will go up from the anxious hearts of this great people one great acclaim of rejoicing, that Utah is disenthralled, that she is clothed with the full power of a great, free, American State, and a full, complete, perfect, and strong part of the greatest Republic

that the history of the world has ever known. [Applause.]

The secretary of the Territory then attested the Constitution.

Mr. Richards offered the following resolution and moved its adoption:

Resolved, That the Constitution having been adopted and signed by a majority of all the members of the Convention, and duly attested, be now delivered to the secretary of the Territory, who is present in the Convention, to be filed in his office.

The resolution was adopted.

Mr. Hart offered the following resolution and moved its adoption:

That the original files and documents of this Convention be filed by the secretary hereof with the secretary of Utah, to be preserved by him with the files of his office.

The resolution was adopted.

Mr. VARIAN. Mr. President, I suggest, if the Constitution is now ready, that it be delivered, in accordance with the order of the Convention, by the presiding officer to the secretary of the Territory, in open Convention.

The president then delivered the engrossed copy of the Constitution to the secretary of the Territory, in open Convention.

Mr. VARIAN. Mr. President, I move that the minutes of this day's proceedings be declared approved, when the president shall finally sign the same.

Mr. RICHARDS. Mr. President, I move as an amendment to that, that the minutes show that the Constitution was delivered by the president of the Convention to the secretary, in open Convention.

The motion was agreed to.

Mr. VARIAN. Is there anything remaining to be done by this Convention, before the final motion for adjournment?

The PRESIDENT. The business of the Convention, I believe, is done, and

the Constitution has been placed in the hands of the secretary.

Mr. VARIAN. Mr. President, I simply want to say, before that motion shall be made, which I shall withhold, if necessary, for other gentlemen to present any remarks that they may have to make, that in my judgment, we may well take a minute of time before finally concluding our labors, by adopting the order of final adjournment in congratulating each other because of the fact that this Convention has demonstrated, beyond the peradventure of a doubt, that all that was needed here in this Territory of Utah, in order to unify its people, was to bring together its representatives from every section and locality in the commonwealth, that they might look into each other's faces, ascertain each other's motives, learn to judge and believe in each other, as members of one common family. I believe that this result has been accomplished by this Convention. I believe that every man who has been a member here, has been liberalized in his views, has been taught by his fellowmen that, after all, we are very much alike, that the same passions, and the same motives, actuate us all.

We have been taught also that underlying everything here has been the one idea of duty—duty born of the circumstances, fraught with great consequences, which has impelled every man on this floor, during the past two months, to give his best endeavors toward the sought-for result. I do not believe that any gentleman that has participated in the labors of this Convention can possibly carry away with him any other conviction than that it is his bounden duty to stand by and support the results of the joint labors of the Convention. Called together for this especial purpose, bulding up and lifting up a commonwealth, all the dead past has been buried, nothing remains but to set our faces toward the rising sun of the future, using all our en-

deavors to carry on the work set before us, conscious that if we fail in the end, nevertheless that we at least can say, we have labored diligently and faithfully, we have fought the good fight, we have kept the faith. In this fraternal spirit towards all of you, gentlemen, I now move that this Convention do adjourn sine die.

Mr. CANNON. Mr. President, if the gentleman would withdraw that motion a moment—

Mr. VARIAN. I announced, Mr. President, that I would consider it in abeyance.

Mr. CANNON. I believe I express the wish of most of the delegates, if not all present, when I request you, Mr. President, to address the Convention before it shall finally adjourn.

The PRESIDENT. Gentlemen of the Convention, in these, the closing moments, I can but express my regard for every one of you. I thank you for your kindly treatment of myself, and I trust that the result of the experience through which we have gone will indeed accomplish in every sense in the breast of every one of us, the ideas embodied in the remarks of Mr. Varian. We came together as strangers, no doubt with views diverse in many respects from each other, and many of us but little acquainted with the transaction of public business of this character. We have fought the fight, we have finished this work, so far as it has been entrusted to our care. We have placed it in the hands of the proper officers and I have no doubt that the results of the labors that you have performed will be all that you desire, and that in the future commonwealth, when it shall be established, a body of freemen who have loved liberty, and who have labored in preparing and presenting to the people the instrument under which they shall live, will look with pride upon the labors that they have performed. I feel to invoke the Divine blessing upon you, that wherever you may go or wherever you may live,

the blessing of Heaven may attend you, and that its peace may be around you, and that you may be guarded and directed in the paths of uprightness, and that you ever may be enabled to maintain and sustain the principles of government established in our nation, and have joy and satisfaction in seeing your children appreciate the blessings that you have sought to bestow upon them.

Thanking you for your kindness again, and praying that Heaven's blessing may ever attend you and yours, I will give way. I think it is the design now to close by calling upon the oldest member of the house to offer benediction—Mr. Raleigh.

Mr. Raleigh then offered the benediction, and the Convention then, at 2:35 p. m., adjourned sine die.

CONSTITUTION

OF THE

STATE OF UTAH.

PREAMBLE.

Grateful to Almighty God for life and liberty, we, the people of Utah, in order to secure and perpetuate the principles of free government, do ordain and establish this

CONSTITUTION.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

SEC. 2. All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

SEC. 3. The State of Utah is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free

exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and State, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment. No property qualification shall be required of any person to vote or hold office, except as provided in this Constitution.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it.

SEC. 6. The people have the right to bear arms for their security and defense, but the Legislature may regulate the exercise of this right by law.

SEC. 7. No person shall be deprived of life, liberty or property, without due process of law.

SEC. 8. All prisoners shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption strong.

SEC. 9. Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

SEC. 10. In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

SEC. 11. All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

SEC. 12. In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be

compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

SEC. 13. Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State, or by indictment, with or without such examination and commitment. The grand jury shall consist of seven persons, five of whom must concur to find an indictment; but no grand jury shall be drawn or summoned unless in the opinion of the judge of the district, public interest demands it.

SEC. 14. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, particularly describing the place to be searched and the person or thing to be seized.

SEC. 15. No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 16. There shall be no imprisonment for debt, except in cases of absconding debtors.

SEC. 17. All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers, in time of war, may vote at their post of duty, in or out of the State, under regulations to be prescribed by law.

SEC. 18. No bill of attainder, ex post

facto law, or law impairing the obligation of contracts shall be passed.

SEC. 19. Treason against the State shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act.

SEC. 20. The military shall be in strict subordination to the civil power, and no soldier in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war except in a manner to be prescribed by law.

SEC. 21. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within this State.

SEC. 22. Private property shall not be taken or damaged for public use without just compensation.

SEC. 23. No law shall be passed granting irrevocably any franchise, privilege or immunity.

SEC. 24. All laws of a general nature shall have uniform operation.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 27. Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

ARTICLE II.

STATE BOUNDARIES.

SECTION 1. The boundaries of the State of Utah shall be as follows:

Beginning at a point formed by the intersection of the thirty-second degree of longitude west from Washington, with the thirty-seventh degree of north latitude; thence due west along said

thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree of west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree of west longitude to the place of beginning.

ARTICLE III.

ORDINANCE.

The following ordinance shall be irrevocable without the consent of the United States and the people of this State:

First:—Perfect toleration of religious sentiment is guaranteed. No inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship; but polygamous or plural marriages are forever prohibited.

Second:—The people inhabiting this State do affirm and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries hereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction

and control of the Congress of the United States. The lands belonging to citizens of the United States, residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; nor shall taxes be imposed by this State on lands or property herein, belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing in this ordinance shall preclude this State from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, by patent or other grant, a title thereto, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress, containing a provision exempting the land thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as is or may be provided in the act of Congress granting the same.

Third:—All debts and liabilities of the Territory of Utah, incurred by authority of the Legislative Assembly thereof, are hereby assumed and shall be paid by this State.

Fourth:—The Legislature shall make laws for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and be free from sectarian control.

ARTICLE IV.

ELECTIONS AND RIGHT OF SUFFRAGE.

SECTION 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.

SEC. 2. Every citizen of the United States, of the age of twenty-one years and upwards, who shall have been a

citizen for ninety days, and shall have resided in the State or Territory one year, in the county four months, and in the precinct sixty days next preceding any election, shall be entitled to vote at such election except as herein otherwise provided.

SEC. 3. In all cases except those of treason, felony or breach of the peace, electors shall be privileged from arrest on the days of election, during their attendance at elections, and going to and returning therefrom.

SEC. 4. No elector shall be obliged to perform militia duty on the day of election except in time of war or public danger.

SEC. 5. No person shall be deemed to be a qualified elector of this State unless such person be a citizen of the United States.

SEC. 6. No idiot, insane person or person convicted of treason, or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote at any election, or be eligible to hold office in this State.

SEC. 7. Except in elections levying a special tax or creating indebtedness, no property qualification shall be required for any person to vote or hold office.

SEC. 8. All elections shall be by secret ballot. Nothing in this section shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election: Provided, That secrecy in voting be preserved.

SEC. 9. All general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal and school officers shall be elected at such time as may be provided by law.

SEC. 10. All officers made elective or appointive by this Constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity."

ARTICLE V.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Utah shall be divided into three distinct departments, the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE VI.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power of this State shall be vested in a Senate and a House of Representatives, which shall be designated the Legislature of the State of Utah.

SEC. 2. Regular sessions of the Legislature shall be held biennially at the seat of government; and except the first session thereof shall commence on the second Monday in January next after the election of members of the House of Representatives.

SEC. 3. The members of the House of Representatives, after the first election, shall be chosen by the qualified electors of the respective representative districts, on the first Tuesday after the first Monday in November, 1896, and biennially thereafter. Their term of office shall be two years, from the first

day of January next after their election.

SEC. 4. The senators shall be chosen by the qualified electors of the respective senatorial districts, at the same times and places as members of the House of Representatives, and their term of office shall be four years from the first day of January next after their election: Provided, That the senators elected in 1896 shall be divided by lots into two classes as nearly equal as may be; seats of senators of the first class shall be vacated at the expiration of two years, those of the second class at the expiration of four years; so that one-half, as near as possible, shall be chosen biennially thereafter. In case of increase in the number of senators, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal as practicable.

SEC. 5. No person shall be eligible to the office of senator or representative, who is not a citizen of the United States, twenty-five years of age, a qualified voter in the district from which he is chosen, a resident for three years of the State, and for one year of the district from which he is elected.

SEC. 6. No person holding any public office of profit or trust under authority of the United States, or of this State, shall be a member of the Legislature: Provided, That appointments in the State militia, and the offices of notary public, justice of the peace, United States commissioner, and postmaster of the fourth class, shall not, within the meaning of this section, be considered offices of profit or trust.

SEC. 7. No member of the Legislature, during the term for which he was elected, shall be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 8. Members of the Legislature, in all cases except treason, felony or

breach of the peace, shall be privileged from arrest during each session of the Legislature, for fifteen days next preceding each session, and in returning therefrom; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 9. The members of the Legislature shall receive such per diem and mileage as the Legislature may provide, not exceeding four dollars per day, and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

SEC. 10. Each house shall be the judge of the election and qualifications of its members, and may punish them for disorderly conduct, and with the concurrence of two-thirds of all the members elected, expel a member for cause.

SEC. 11. A majority of the members of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 12. Each house shall determine the rules of its proceedings, and choose its own officers and employes.

SEC. 13. The Governor shall issue writs of election to fill vacancies that may occur in either house of the Legislature.

SEC. 14. Each house shall keep a journal of its proceedings, which, except in case of executive sessions, shall be published, and the yeas and nays on any question, at the request of five members of such house, shall be entered upon the journal.

SEC. 15. All sessions of the Legislature, except those of the Senate while sitting in executive session, shall be public; and neither house, without the consent of the other, shall adjourn for more than three days, nor to any other

place than that in which it may be holding session.

SEC. 16. No regular session of the Legislature (except the first, which may sit ninety days) shall exceed sixty days, except in cases of impeachment. No special session shall exceed thirty days, and in such special session, or when a regular session of the Legislature trying cases of impeachment exceeds sixty days, the members shall receive for compensation only the usual per diem and mileage.

SEC. 17. The House of Representatives shall have the sole power of impeachment, but in order to impeach, two-thirds of all the members elected must vote therefor.

SEC. 18. All impeachments shall be tried by the Senate, and senators, when sitting for that purpose, shall take oath or make affirmation to do justice according to the law and the evidence. When the Governor is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

SEC. 19. The Governor and other State and Judicial officers, except justices of the peace, shall be liable to impeachment for high crimes, misdemeanors, or malfeasance in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial and punishment according to law.

SEC. 20. No person shall be tried on impeachment, unless he shall have been served with a copy of the articles thereof, at least ten days before the trial, and after such service he shall not exercise the duties of his office until he shall have been acquitted.

SEC. 21. All officers not liable to impeachment shall be removed for any of the offenses specified in this article, in

such manner as may be provided by law.

SEC. 22. The enacting clause of every law shall be: "Be it enacted by the Legislature of the State of Utah," and no bill or joint resolution shall be passed, except with the assent of a majority of all the members elected to each house of the Legislature, and after it has been read three times. The vote upon the final passage of all bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be re-enacted and published at length.

SEC. 23. Except general appropriation bills, and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.

SEC. 24. The presiding officer of each house, in the presence of the house over which he presides, shall sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of such signing shall be entered upon the journal.

SEC. 25. All acts shall be officially published, and no act shall take effect until so published, nor until sixty days after the adjournment of the session at which it passed, unless the Legislature by vote of two-thirds of all the members elected to each house, shall otherwise direct.

SEC. 26. The Legislature is prohibited from enacting any private or special laws in the following cases:

- 1.—Granting divorce.
- 2.—Changing the names of persons or places, or constituting one person the heir at law of another.
- 3.—Locating or changing county seats.
- 4.—Regulating the jurisdiction and duties of justices of the peace.
- 5.—Punishing crimes and misdemeanors.

6.—Regulating the practice of courts of justice.

7.—Providing for a change of venue in civil or criminal actions.

8.—Assessing and collecting taxes.

9.—Regulating the interest on money.

10.—Changing the law of descent or succession.

11.—Regulating county and township affairs.

12.—Incorporating cities, towns or villages; changing or amending the charter of any city, town or village; laying out, opening, vacating or altering town plats, highways, streets, wards, alleys or public grounds.

13.—Providing for sale or mortgage of real estate belonging to minors or others under disability.

14.—Authorizing persons to keep ferries across streams within the State.

15.—Remitting fines, penalties or forfeitures.

16.—Granting to an individual, association or corporation any privilege, immunity or franchise.

17.—Providing for the management of common schools.

18.—Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

The Legislature may repeal any existing special law relating to the foregoing subdivisions.

In all cases where a general law can be applicable, no special law shall be enacted.

Nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads, ditch, flume and tunnel companies, in-

incorporated under the laws of the State or doing business therein.

SEC. 27. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or person to the State, or to any municipal corporation therein.

SEC. 28. The Legislature shall not authorize any game of chance, lottery or gift enterprise under any pretense or for any purpose.

SEC. 29. The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions.

SEC. 30. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation, fee or allowance to any public officer, agent, servant, or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without authority of law; Provided, That this section shall not apply to claims incurred by public officers in the execution of the laws of the State.

SEC. 31. The Legislature shall not authorize the State, or any county, city, town, township, district or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph or other private individual or corporate enterprise or undertaking.

ARTICLE VII.

EXECUTIVE.

SECTION 1. The Executive Depart-

ment shall consist of Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Instruction, each of whom shall hold his office for four years, beginning on the first Monday of January next after his election, except that the terms of office of those elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January, A. D. 1901. The officers of the Executive Department, during their terms of office, shall reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law.

SEC. 2. The officers provided for in section one of this article, shall be elected by the qualified electors of the State at the time and place of voting for members of the Legislature, and the persons respectively having the highest number of votes cast for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the Legislature, at its next regular session, shall elect forthwith by joint ballot one of such persons for said office.

SEC. 3. No person shall be eligible to the office of Governor or Secretary of State unless he shall have attained the age of thirty years at the time of his election, nor to the office of Attorney-General unless he shall have attained the age of twenty-five years at the time of his election, and have been admitted to practice in the Supreme Court of the Territory or of the State of Utah, nor unless he shall be in good standing at the bar at the time of his election. No person shall be eligible to any of the offices provided for in section one of this article, unless at the time of his election he shall be a qualified elector, and shall have been a resident citizen of the State or Territory for five years next preced-

ing his election. The State Auditor and State Treasurer shall be ineligible to election as their own successors.

SEC. 4. The Governor shall be commander-in-chief of the military forces of the State, except when they shall be called into the service of the United States. He shall have the power to call out the militia to execute the laws, to suppress insurrection, or to repel invasion.

SEC. 5. The Governor shall see that the laws are faithfully executed; he shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the Executive Department, and from the officers and managers of State Institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions, and at any time when the Legislative Assembly is not in session, may, if he deem it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or State institution. He shall communicate by message the condition of the State to the Legislature at every regular session, and recommend such measures as he may deem expedient.

SEC. 6. On extraordinary occasions, the Governor may convene the Legislature by proclamation, in which shall be stated the purpose for which the Legislature is to be convened, and it shall transact no legislative business except that for which it was especially convened, or such other legislative business as the Governor may call to its attention while in session. The Legislature, however, may provide for the expenses of the session and other matters incidental thereto. The Governor may also by proclamation convene the Senate in extraordinary session for the transaction of executive business.

SEC. 7. In case of a disagreement between the two houses of the Legislature at any special session, with respect to

the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper: Provided, it be not beyond the time fixed for the convening of the next Legislature.

SEC. 8. Every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor; if he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If, after such reconsideration, it again passes both houses by a ye and nay vote of two-thirds of the members elected to each house, it shall become a law, notwithstanding the Governor's objections. If any bill be not returned within five days after it shall have been presented to him (Sunday and the day on which he received it excepted), the same shall be a law in like manner as if he had signed it, unless the Legislature by its final adjournment prevent such return, in which case it shall be filed with his objections in the office of the Secretary of State, within ten days after such adjournment (Sunday excepted) or become a law. If any bill presented to the Governor contains several items of appropriations of money, he may object to one or more such items, while approving other portions of the bill; in such case he shall append to the bill at the time of signing it a statement of the item or items which he declines to approve, together with his reason therefor, and such item or items shall not take effect unless passed over the Governor's objection as in this section provided.

SEC. 9. When any State or district office shall become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have the power to fill the same by granting a commission, which shall ex-

pire at the next election, and upon qualification of the person elected to such office.

SEC. 10. The Governor shall nominate, and by and with the consent of the Senate, appoint all State and district officers whose offices are established by this Constitution, or which may be created by law and whose appointment or election is not otherwise provided for. If, during the recess of the Senate, a vacancy occur in any State or district office, the Governor shall appoint some fit person to discharge the duties thereof until the next meeting of the Senate, when he shall nominate some person to fill such office. If the office of Justice of the Supreme or District Court, Secretary of State, State Auditor, State Treasurer, Attorney-General or Superintendent of Public Instruction be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified, as may be by law provided.

SEC. 11. In case of the death of the Governor, or his impeachment, removal from office, inability to discharge the duties of his office, resignation or absence from the State, the powers and duties of said office shall devolve upon the Secretary of State until the disability shall cease, or until the next general election, when the vacancy shall be filled by election. If, during a vacancy in the office of the Governor, the Secretary of State resign, die or become incapable of performing the duties of the office, or be displaced, or be absent from the State, the President pro tempore of the Senate shall act as Governor until the vacancy be filled or the disability cease. While performing the duties of the Governor as in this section provided, the Secretary of State, or the President pro tempore of the Senate, as the case may be, except in cases of temporary disability, or absence from

the State, shall be entitled to the salary and emoluments of the Governor.

SEC. 12. Until otherwise provided by law, the Governor, Justices of the Supreme Court and Attorney-General shall constitute a Board of Pardons, a majority of whom, including the Governor, upon such conditions, and with such limitations and restrictions as they deem proper, may remit fines and forfeitures, commute punishments, and grant pardons after convictions, in all cases except treason and impeachments, subject to such regulations as may be provided by law, relative to the manner of applying for pardons; but no fine or forfeiture shall be remitted, and no commutation or pardon granted, except after a full hearing before the Board, in open session, after previous notice of the time and place of such hearing has been given. The proceedings and decisions of the Board, with the reasons therefor in each case, together with the dissent of any member who may disagree, shall be reduced to writing, and filed with all papers used upon the hearing, in the office of the Secretary of State.

The Governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the State, except treason or conviction on impeachment; but such respites or reprieves shall not extend beyond the next session of the Board of Pardons; and such Board, at such session, shall continue or determine such respite or reprieve, or they may commute the punishment, or pardon the offense as herein provided. In case of conviction for treason, the Governor shall have the power to suspend execution of the sentence, until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon, or commute the sentence, or direct its execution; he shall communicate to the Legislature at each regular session, each case of remission of fine or forfeiture, reprieve, commutation or par

don granted since the last previous report, stating the name of the convict, the crime for which he was convicted, the sentence and its date, the date of remission, commutation, pardon or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the Board made thereto.

SEC. 13. Until otherwise provided by law, the Governor, Secretary of State and Attorney-General shall constitute a Board of State Prison Commissioners, which board shall have such supervision of all matters connected with the State prison as may be provided by law. They shall, also, constitute a Board of Examiners, with power to examine all claims against the State except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law, and no other claim against the State, except for salaries and compensation of officers fixed by law, shall be passed upon by the Legislature without having been considered and acted upon by the said Board of Examiners.

SEC. 14. Until otherwise provided by law, the Governor, State Treasurer and State Auditor shall constitute a Board of Insane Asylum Commissioners. Said Board shall have such supervision of all matters connected with the State Insane Asylum as may be provided by law.

SEC. 15. Until otherwise provided by law, the Governor, Attorney-General and Superintendent of Public Instruction shall constitute a Board of Reform School Commissioners. Said board shall have such supervision of all matters connected with the State Reform School as may be provided by law.

SEC. 16. The Secretary of State shall keep a record of the official acts of the Legislative and Executive Department of the State, and, when required, shall lay the same and all matters relative thereto before either branch of the Legislature, and shall perform such other duties as may be provided by law.

SEC. 17. The Auditor shall be Auditor of Public Accounts, and the Treasurer shall be the custodian of public moneys, and each shall perform such other duties as may be provided by law.

SEC. 18. The Attorney-General shall be the legal adviser of the State officers, and shall perform such other duties as may be provided by law.

SEC. 19. The Superintendent of Public Instruction shall perform such duties as may be provided by law.

SEC. 20. The Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction and such other State and district officers as may be provided for by law, shall receive for their services quarterly, a compensation as fixed by law, which shall not be diminished or increased so as to affect the salary of any officer during his term, or the term next ensuing after the adoption of this Constitution, unless a vacancy occur, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment. The compensation of the officers provided for by this article, until otherwise provided by law, is fixed as follows:

Governor, two thousand dollars per annum.

Secretary of State, two thousand dollars per annum.

State Auditor, fifteen hundred dollars per annum.

State Treasurer, one thousand dollars per annum.

Attorney-General, fifteen hundred dollars per annum.

Superintendent of Public Instruction, fifteen hundred dollars per annum.

The compensation for said officers as prescribed in this section, and in all laws enacted pursuant to this Constitution, shall be in full for all services rendered by said officers, respectively, in any official capacity or employment during their respective terms of office. No such officer shall receive for the per-

formance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them of any official duty, shall be collected in advance and deposited with the State Treasurer quarterly to the credit of the State. The Legislature may provide for the payment of actual and necessary expenses of said officers while traveling in the State in the performance of official duty.

SEC. 21. All grants and commissions shall be in the name and by the authority of the State of Utah, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 22. There shall be a seal of the State, which shall be kept by the Secretary of State, and used by him officially. Said seal shall be called "The Great Seal of the State of Utah." The present seal of the Territory of Utah shall be the seal of the State until otherwise provided by law.

SEC. 23. No person, while holding any office under the United States government, shall hold any office under the State government of Utah, and the Governor shall not be eligible for election to the Senate of the United States during the term for which he shall have been elected Governor.

ARTICLE VIII.

JUDICIAL DEPARTMENT.

SECTION 1. The Judicial power of the State shall be vested in the Senate sitting as a court of impeachment, in a supreme court, in district courts, in justices of the peace, and such other courts inferior to the Supreme Court as may be established by law.

SEC. 2. The Supreme Court shall consist of three judges; but after the year A. D. 1905, the Legislature may increase the number thereof to five. A majority of the judges constituting the court shall be necessary to form a quorum or render a decision. If a justice of the

Supreme Court shall be disqualified from sitting in a cause before said court, the remaining judges shall call a district judge to sit with them on the hearing of such cause. The Judges of the Supreme Court shall be elected by the electors of the State at large. The term of office of the Judges of the Supreme Court, excepting as in this article otherwise provided, shall be six years. The Judges of the Supreme Court, immediately after the first election under this Constitution, shall be selected by lot, so that one shall hold office for the term of three years, one for five years, and one for the term of seven years. The lots shall be drawn by the Judges of the Supreme Court, who, for that purpose, shall assemble at the seat of government; and they shall cause the result thereof to be certified by the Secretary of State, and filed in his office. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the Chief Justice, and shall preside at all terms of the Supreme Court, and in case of his absence, the judge, having in like manner, the next shortest term, shall preside in his stead.

SEC. 3. Every Judge of the Supreme Court shall be at least thirty years of age, and, before his election, shall be a member of the bar, learned in the law, and a resident of the Territory or State of Utah for five years next preceding his election.

SEC. 4. The Supreme Court shall have original jurisdiction to issue writs of mandamus, certiorari, prohibition, quo warranto and habeas corpus. Each of the justices shall have power to issue writs of habeas corpus, to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or before any district court or judge thereof in the State. In other cases the Supreme Court shall have

appellate jurisdiction only, and power to issue writs necessary and proper for the exercise of that jurisdiction. The Supreme Court shall hold at least three terms every year, and shall sit at the capital of the State.

SEC. 5. The State shall be divided into seven judicial districts, for each of which, at least one, and not exceeding three judges, shall be chosen by the qualified electors thereof. The term of office of the district judges shall be four years, except that the district judges elected at the first election shall serve until the first Monday in January, A. D. 1901, and until their successors shall have qualified. Until otherwise provided by law, a district court at the county seat of each county shall be held at least four times a year. All civil and criminal business arising in any county, must be tried in such county, unless a change of venue be taken, in such cases as may be provided by law. Each judge of the District Court shall be at least twenty-five years of age, a member of the bar, learned in the law, a resident of the Territory or State of Utah three years next preceding his election, and shall reside in the district for which he shall be elected. Any District Judge may hold a District Court in any county at the request of the judge of the district, and upon a request of the Governor, it shall be his duty to do so. Any cause in the District Court may be tried by a judge pro tempore, who must be a member of the bar, sworn to try the cause, and agreed upon by the parties, or their attorneys of record.

SEC. 6. The Legislature may change the limits of any judicial district, or increase or decrease the number of districts, or the judges thereof. No alteration or increase shall have the effect of removing a judge from office. In every additional district established, a judge shall be elected by the electors thereof, and his term of office shall continue as provided in section five of this article.

SEC. 7. The District Court shall have original jurisdiction in all matters civil and criminal, not excepted in this Constitution, and not prohibited by law; appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. The District Courts or any judge thereof, shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition and other writs necessary to carry into effect their orders, judgments and decrees, and to give them a general control over inferior courts and tribunals within their respective jurisdictions.

SEC. 8. The Legislature shall determine the number of justices of the peace to be elected, and shall fix by law their powers, duties and compensation. The jurisdiction of justices of the peace shall be as now provided by law, but the Legislature may restrict the same.

SEC. 9. From all final judgments of the District Courts, there shall be a right of appeal to the Supreme Court. The appeal shall be upon the record made in the court below, and under such regulations as may be provided by law. In equity cases the appeal may be on questions of both law and fact; in cases at law the appeal shall be on questions of law alone. Appeals shall also lie from the final orders and decrees of the Court in the administration of decedent estates, and in cases of guardianship, as shall be provided by law. Appeals shall also lie from the final judgment of justices of the peace in civil and criminal cases to the District Courts on both questions of law and fact, with such limitations and restrictions as shall be provided by law; and the decision of the District Courts on such appeals shall be final, except in cases involving the validity or constitutionality of a statute.

SEC. 10. A County Attorney shall be elected by the qualified voters of each county who shall hold his office for a term of two years. The powers and

duties of County Attorneys and such other attorneys for the State as the Legislature may provide, shall be prescribed by law. In all cases where the attorney for any county, or for the State, fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney pro tempore.

SEC. 11. Judges may be removed from office by the concurrent vote of both houses of the Legislature, each voting separately; but two-thirds of the members to which each house may be entitled must concur in such vote. The vote shall be determined by yeas and nays, and the names of the members voting for or against a judge, together with the cause or causes of removal, shall be entered on the journal of each house. The judge against whom the house may be about to proceed shall receive notice thereof, accompanied with a copy of the cause alleged for his removal, at least ten days before the day on which either house of the Legislature shall act thereon.

SEC. 12. The Judges of the Supreme and District Courts shall receive at stated times compensation for their services, which shall not be increased or diminished during the time for which they are elected.

SEC. 13. Except by consent of all the parties, no judge of the supreme or inferior courts shall preside in the trial of any cause where either of the parties shall be connected with him by affinity or consanguinity within the degree of first cousin, or in which he may have been of counsel, or in the trial of which he may have presided in any inferior court.

SEC. 14. The Supreme Court shall appoint a clerk, and a reporter of its decisions, who shall hold their offices during the pleasure of the Court. Until otherwise provided, County Clerks shall be ex officio clerks of the District Courts in and for their respective coun-

ties, and shall perform such other duties as may be provided by law.

SEC. 15. No person relate^u to any judge of any court by affinity or consanguinity within the degree of first cousin, shall be appointed by such court or judge to, or employed by such court or judge in any office or duty in any court of which such judge may be a member.

SEC. 16. Until otherwise provided by law, the Judicial Districts of the State shall be constituted as follows:

First District: The Counties of Cache, Box Elder and Rich.

Second District: The Counties of Weber, Morgan and Davis.

Third District: The Counties of Summit, Salt Lake and Tooele, in which there shall be elected three district judges.

Fourth District: The Counties of Utah, Wasatch and Uintah.

Fifth District: The Counties of Juab, Millard, Beaver, Iron and Washington.

Sixth District: The Counties of Sevier, Piute, Wayne, Garfield and Kane.

Seventh District: The Counties of Sanpete, Carbon, Emery, Grand and San Juan.

SEC. 17. The Supreme and District Courts shall be courts of record, and each shall have a seal.

SEC. 18. The style of all process shall be "The State of Utah," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 19. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 20. Until otherwise provided by law, salaries of supreme and district judges, shall be three thousand dollars per annum and mileage, payable quarterly out of the State treasury.

SEC. 21. Judges of the Supreme Court, District Court, and justices of the peace, shall be conservators of the peace, and may hold preliminary examinations in cases of felony.

SEC. 22. District Judges may, at any

time, report defects and omissions in the law to the Supreme Court, and the Supreme Court, on or before the first day of December of each year, shall report in writing to the Governor any seeming defect or omission in the law.

SEC. 23. The Legislature may provide for the publication of decisions and opinions of the Supreme Court, but all decisions shall be free to publishers.

SEC. 24. The terms of office of Supreme and District Judges may be extended by law, but such extension shall not affect the term for which any judge was elected.

SEC. 25. When a judgment or decree is reversed, modified or affirmed by the Supreme Court, the reasons therefor shall be stated concisely in writing, signed by the judges concurring, filed in the office of the Clerk of the Supreme Court, and preserved with a record of the case. Any judge dissenting therefrom, may give the reasons of his dissent in writing over his signature.

SEC. 26. It shall be the duty of the court to prepare a syllabus of all the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

SEC. 27. Any judicial officer who shall absent himself from the State or district for more than ninety consecutive days, shall be deemed to have forfeited his office: Provided, That in case of extreme necessity, the Governor may extend the leave of absence to such time as the necessity therefor shall exist.

ARTICLE IX.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SECTION 1. One representative in the Congress of the United States shall be elected from the State at large on the Tuesday next after the first Monday in November, A. D. 1895, and thereafter at

such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the Legislature shall divide the State into congressional districts accordingly.

SEC. 2. The Legislature shall provide by law for the enumeration of the inhabitants of the State, A. D. 1905, and every tenth year thereafter, and at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for Senators and Representatives on the basis of such enumeration according to ratios to be fixed by law.

SEC. 3. The Senate shall consist of eighteen members, and the House of Representatives of forty-five members. The Legislature may increase the number of Senators and Representatives, but the Senators shall never exceed thirty in number, and the number of Representatives shall never be less than twice nor greater than three times the number of Senators.

SEC. 4. When more than one county shall constitute a Senatorial District, such counties shall be contiguous, and no county shall be divided in the formation of such districts unless such county contains sufficient population within itself to form two or more districts, nor shall a part of any county be united with any other county in forming any district.

REPRESENTATIVE DISTRICTS.

Until otherwise provided by law, Representatives shall be apportioned among the several counties of the State as follows:

Provided, That in any future apportionment made by the Legislature, each county shall be entitled to at least one representative.

The County of Box Elder shall constitute the First Representative District, and be entitled to one representative.

The County of Cache shall constitute the Second Representative District, and be entitled to three representatives.

The County of Rich shall constitute the Third Representative District, and be entitled to one representative.

The County of Weber shall constitute the Fourth Representative District, and be entitled to four representatives.

The County of Morgan shall constitute the Fifth Representative District, and be entitled to one representative.

The County of Davis shall constitute the Sixth Representative District, and be entitled to one representative.

The County of Tooele shall constitute the Seventh Representative District, and be entitled to one representative.

The County of Salt Lake shall constitute the Eighth Representative District, and be entitled to ten representatives.

The County of Summit shall constitute the Ninth Representative District, and be entitled to one representative.

The County of Wasatch shall constitute the Tenth Representative District, and be entitled to one representative.

The County of Utah shall constitute the Eleventh Representative District, and be entitled to four representatives.

The County of Uintah shall constitute the Twelfth Representative District, and be entitled to one representative.

The County of Juab shall constitute the Thirteenth Representative District, and be entitled to one representative.

The County of Sanpete shall constitute the Fourteenth Representative District, and be entitled to two representatives.

The County of Carbon shall constitute the Fifteenth Representative District, and be entitled to one representative.

The County of Emery shall constitute the Sixteenth Representative District, and be entitled to one representative.

The County of Grand shall constitute the Seventeenth Representative District, and be entitled to one representative.

The County of Sevier shall constitute

the Eighteenth Representative District, and be entitled to one representative.

The County of Millard shall constitute the Nineteenth Representative District, and be entitled to one representative.

The County of Beaver shall constitute the Twentieth Representative District, and be entitled to one representative.

The County of Piute shall constitute the Twenty-first Representative District, and be entitled to one representative.

The County of Wayne shall constitute the Twenty-second Representative District, and be entitled to one representative.

The County of Garfield shall constitute the Twenty-third Representative District, and be entitled to one representative.

The County of Iron shall constitute the Twenty-fourth Representative District, and be entitled to one representative.

The County of Washington shall constitute the Twenty-fifth Representative District, and be entitled to one representative.

The County of Kane shall constitute the Twenty-sixth Representative District, and be entitled to one representative.

The County of San Juan shall constitute the Twenty-seventh Representative District, and be entitled to one representative.

SENATORIAL DISTRICTS.

Until otherwise provided by law, the Senatorial Districts shall be constituted and numbered as follows:

The Counties of Box Elder and Tooele shall constitute the First District, and be entitled to one senator.

The County of Cache shall constitute the Second District, and be entitled to one senator.

The Counties of Rich, Morgan and Davis shall constitute the Third District, and be entitled to one senator.

The County of Weber shall constitute

the Fourth District, and be entitled to two senators.

The Counties of Summit and Wasatch shall constitute the Fifth District, and be entitled to one senator.

The County of Salt Lake shall constitute the Sixth District, and be entitled to five senators.

The County of Utah shall constitute the Seventh District, and be entitled to two senators.

The Counties of Juab and Millard shall constitute the Eighth District, and be entitled to one senator.

The County of Sanpete shall constitute the Ninth District, and be entitled to one senator.

The Counties of Sevier, Wayne, Piute, and Garfield shall constitute the Tenth District, and be entitled to one senator.

The Counties of Beaver, Iron, Washington, and Kane shall constitute the Eleventh District, and be entitled to one senator.

The Counties of Emery, Carbon, Uintah, Grand, and San Juan shall constitute the Twelfth District, and be entitled to one senator.

ARTICLE X.

EDUCATION.

SECTION 1. The Legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of the State, and be free from sectarian control.

SEC. 2. The Public School System shall include kindergarten schools; common schools, consisting of primary and grammar grades; high schools; an Agricultural College; a University, and such other schools as the Legislature may establish. The common school shall be free. The other departments of the system shall be supported as provided by law: Provided, That high schools may be maintained free in all cities of the first and second class now constituting

school districts, and in such other cities and districts as may be designated by the Legislature. But where the proportion of school moneys apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city district, the high schools shall be supported by local taxation.

SEC. 3. The proceeds of all lands that have been, or may be granted by the United States to this State, for the support of the common schools; the proceeds of all property that may accrue to the State by escheat or forfeiture; all unclaimed shares and dividends of any corporation incorporated under the laws of this State; the proceeds of the sale of timber, minerals or other property from school and State lands, other than those granted for specific purposes; and five per centum of the net proceeds of the sales of public lands lying within the State, which shall be sold by the United States, subsequent to the admission of this State into the Union, shall be and remain a perpetual fund, to be called the State School Fund, the interest of which only, together with such means as the Legislature may provide, shall be distributed among the several school districts according to the school population residing therein.

SEC. 4. The location and establishment by existing laws of the University of Utah, and the Agricultural College are hereby confirmed, and all the rights, immunities, franchises and endowments heretofore granted or conferred, are hereby perpetuated unto said University and Agricultural College respectively.

SEC. 5. The proceeds of the sale of lands reserved by an Act of Congress, approved February 21st, 1855, for the establishment of the University of Utah, and of all the lands granted by an Act of Congress, approved July 16th, 1894, shall constitute permanent funds, to be safely invested and held by the

State; and the income thereof shall be used exclusively for the support and maintenance of the different institutions and colleges, respectively, in accordance with the requirements and conditions of said acts of Congress.

SEC. 6. In cities of the first and second class, the public school system shall be maintained and controlled, by the Board of Education of such cities, separate and apart from the Counties in which said cities are located.

SEC. 7. All public school funds shall be guaranteed by the State against loss or diversion.

SEC. 8. The general control and supervision of the Public School System shall be vested in a State Board of Education, consisting of the Superintendent of Public Instruction, and such other persons as the Legislature may provide.

SEC. 9. Neither the Legislature nor the State Board of Education shall have power to prescribe text books to be used in the common schools.

SEC. 10. Institutions for the Deaf and Dumb, and for the Blind, are hereby established. All property belonging to the School for the Deaf and Dumb, heretofore connected with the University of Utah, shall be transferred to said Institution for the Deaf and Dumb. All the proceeds of the lands granted by the United States for the support of a Deaf and Dumb Asylum, and for an Institution for the Blind, shall be a perpetual fund for the maintenance of said Institutions. It shall be a trust fund, the principal of which shall remain inviolate, guaranteed by the State against loss or diversion.

SEC. 11. The Metric System shall be taught in the public schools of the State.

SEC. 12. Neither religious nor partisan test or qualification shall be required of any person as a condition of admission, as teacher or student, into any public educational institution of the State.

SEC. 13. Neither the Legislature nor any county, city, town, school district or other public corporation, shall make any appropriation to aid in the support of any school, seminary, academy, college, university or other institution, controlled in whole, or in part by any church, sect or denomination whatever.

ARTICLE XI.

COUNTIES, CITIES AND TOWNS.

SECTION 1. The several counties of the Territory of Utah, existing at the time of the adoption of this Constitution, are hereby recognized as legal subdivisions of this State, and the precincts, and school districts, now existing in the said counties, as legal subdivisions thereof, and they shall so continue until changed by law in pursuance of this article.

SEC. 2. No County Seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to re-locate a county seat. A proposition of removal shall not be submitted in the same county more than once in four years.

SEC. 3. No territory shall be stricken from any county unless a majority of the voters living in such territory, as well as of the county to which it is to be annexed, shall vote therefor, and then only under such conditions as may be prescribed by general law.

SEC. 4. The Legislature shall establish a system of county government, which shall be uniform throughout the State, and by general laws shall provide for precinct and township organizations.

SEC. 5. Corporations for municipal purposes shall not be created by special laws; the Legislature, by general laws, shall provide for the incorporation, organization, and classification of cities

and towns in proportion to population; which laws may be altered, amended or repealed.

SEC. 6. No municipal corporation, shall directly or indirectly, lease, sell, alien or dispose of any waterworks, water-rights, or sources of water supply now, or hereafter to be owned or controlled by it, but all such waterworks, water-rights and sources of water supply now owned or hereafter to be acquired by any municipal corporation, shall be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges: Provided, That nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water-rights, or sources of water supply, for other water-rights or sources of water supply of equal value, and to be devoted in like manner to the public supply of its inhabitants.

ARTICLE XII.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended or repealed by the Legislature, and all corporations doing business in this State, may, as to such business, be regulated, limited or restrained by law.

SEC. 2. All existing charters, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity; and no corporation in existence at the time of the adoption of this Constitution shall have the benefit of future legislation without first filing in the office of the Secretary of State, an acceptance of the provisions of this Constitution.

SEC. 3. The Legislature shall not

extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.

SEC. 4. The term "Corporation," as used in this article, shall be construed to include all associations and joint stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

SEC. 5. Corporations shall not issue stock, except to bona fide subscribers thereof or their assignee, nor shall any corporation issue any bond, or other obligation, for the payment of money, except for money or property received, or labor done. The stock of corporations shall not be increased, except in pursuance of general law, nor shall any law authorize the increase of stock without the consent of the person or persons holding the larger amount in value of the stock, or without due notice of the proposed increase having previously been given in such manner as may be prescribed by law. All fictitious increase of stock or indebtedness shall be void.

SEC. 6. No corporations organized outside of this State, shall be allowed to transact business within the State, on conditions more favorable than those prescribed by law to similar corporations, organized under the laws of this State.

SEC. 7. No corporation shall lease or alienate any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor, or grantor, lessee, or grantee, contracted or incurred in operation, use or enjoyment of such franchise or any of its privileges.

SEC. 8. No law shall be passed, granting the right to construct and operate a street railroad, telegraph,

telephone or electric light plant within any city or incorporated town, without the consent of the local authorities who have the control of the street or highway proposed to be occupied for such purposes.

SEC. 9. No corporation shall do business in this State, without having one or more places of business, with an authorized agent or agents, upon whom process may be served; nor without first filing a certified copy of its articles of incorporation with the Secretary of State.

SEC. 10. No corporation shall engage in any business other than that expressly authorized in its charter, or articles of incorporation.

SEC. 11. The exercise of the right of eminent domain shall never be so abridged or construed, as to prevent the Legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals.

SEC. 12. All railroad and other transportation companies are declared to be common carriers, and subject to legislative control; and such companies shall receive and transport each other's passengers and freight, without discrimination or unnecessary delay.

SEC. 13. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a competing line.

SEC. 14. The rolling stock, and other moveable property, belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to taxation and to execution and sale, in the same manner as the personal property of individuals, and such property shall not be exempted from execution and sale.

SEC. 15. The Legislature shall pass laws establishing reasonable maximum rates of charges, for the transportation

of passengers and freight, for correcting abuses, and preventing discrimination and extortion in rates of freight and passenger tariffs by the different railroads, and other common carriers in the State, and shall enforce such laws by adequate penalties.

SEC. 16. No corporation or association shall bring any armed person or bodies of men into this State for the preservation of the peace, or the suppression of domestic troubles without authority of law.

SEC. 17. No officer, employe, attorney or agent of any corporation, company or association doing business under, or by virtue of any municipal charter or franchise, shall be eligible to or permitted to hold any municipal office, in the municipality granting such charter or franchise.

SEC. 18. The stockholders in every corporation, and joint stock association for banking purposes, in addition to the amount of capital stock subscribed and fully paid by them, shall be individually responsible for an additional amount, equal to the amount of their stock in such corporation, for all its debts and liabilities of every kind.

SEC. 19. Every person in this State shall be free to obtain employment whenever possible, and any person, corporation, or agent, servant or employe thereof, maliciously interfering or hindering in any way, any person from obtaining, or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a crime. The Legislature shall provide by law for the enforcement of this section.

SEC. 20. Any combination by individuals, corporations, or associations, having for its object or effect the controlling of the price of any products of the soil, or of any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited, and hereby declared unlawful, and against

public policy. The Legislature shall pass laws for the enforcement of this section by adequate penalties, and in case of incorporated companies, if necessary for that purpose, it may declare a forfeiture of their franchise.

ARTICLE XIII.

REVENUE AND TAXATION.

SECTION 1. The fiscal year shall begin on the first day of January, unless changed by the Legislature.

SEC. 2. All property in the State, not exempt under the laws of the United States, or under this Constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The word property, as used in this article, is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership; but this shall not be so construed as to authorize the taxation of the stocks of any company or corporation, when the property of such company or corporation represented by such stocks, has been taxed. The Legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the State for each fiscal year. For the purpose of paying the State debt, if any there be, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest, and principal of such debt, within twenty years from the final passage of the law creating the debt.

SEC. 3. The Legislature shall provide by law a uniform and equal rate of assessment and taxation on all property in the State, according to its value in money, and shall prescribe by general law such regulations as shall secure a just valuation for taxation of all property; so that every person and corporation shall pay a tax in proportion to the value of his, her or its property; Provided, That a deduction of debits

from credits may be authorized; Provided further, That the property of the United States, of the State, counties, cities, towns, school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit, shall be exempt from taxation. Ditches, canals, and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose.

SEC. 4. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim, is used for other than mining purposes, and has a separate and independent value for such other purposes; in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all the machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims, which have a value separate and independent of such mines or mining claims, and the net annual proceeds of all mines and mining claims, shall be taxed as provided by law.

SEC. 5. The Legislature shall not impose taxes for the purpose of any county, city, town or other municipal corporation, but may, by law, vest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.

SEC. 6. An accurate statement of the

receipts and expenditures of the public moneys, shall be published annually in such manner as the Legislature may provide.

SEC. 7. The rate of taxation on property, for State purposes, shall never exceed eight mills on each dollar of valuation; and whenever the taxable property within the State shall amount to two hundred million dollars, the rate shall not exceed five mills on each dollar of valuation; and whenever the taxable property within the State shall amount to three hundred million dollars, the rate shall never thereafter exceed four mills on each dollar of valuation; unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as, in the year next preceding such election, shall have paid a property tax assessed to them within the State, and the majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.

SEC. 8. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.

SEC. 9. No appropriation shall be made, or any expenditure authorized by the Legislature, whereby the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by law, and applicable for such appropriation or expenditure, unless the Legislature making such appropriation, shall provide for levying a sufficient tax, not exceeding the rates allowed in section seven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrections, defend

the State, or assist in defending the United States in time of war.

SEC. 10. All corporations or persons in this State, or doing business herein, shall be subject to taxation for State, county, school, municipal or other purposes, on the real and personal property owned or used by them within the Territorial limits of the authority levying the tax.

SEC. 11. Until otherwise provided by law, there shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney-General; also, in each county of this State, a County Board of Equalization, consisting of the Board of County Commissioners of said county. The duty of the State Board of Equalization shall be to adjust and equalize the valuation of the real and personal property among the several counties of the State. The duty of the County Board of Equalization shall be to adjust and equalize the valuation of the real and personal property within their respective counties. Each Board shall also perform such other duties as may be prescribed by law.

SEC. 12. Nothing in this Constitution shall be construed to prevent the Legislature from providing a stamp tax, or a tax based on income, occupation, licenses, franchises or mortgages.

ARTICLE XIV.

PUBLIC DEBT.

SECTION 1. To meet casual deficits or failures in revenue, and for necessary expenditures for public purposes, including the erection of public buildings, and for the payment of all Territorial indebtedness assumed by the State, the State may contract debts, not exceeding in the aggregate at any one time, the sum of two hundred thousand dollars over and above the amount of the Territorial indebtedness assumed by the State. But when the said

Territorial indebtedness shall have been paid, the State shall never contract any indebtedness, except as in the next section provided, in excess of the sum of two hundred thousand dollars, and all moneys arising from loans herein authorized, shall be applied solely to the purposes for which they were obtained.

SEC. 2. The State may contract debts to repel invasion, suppress insurrection, or defend the State in war, but the money arising from the contracting of such debts shall be applied solely to the purposes for which it was obtained.

SEC. 3. No debt in excess of the taxes for the current year shall be created by any county or subdivision thereof, or by any school district therein, or by any city, town or village, or any subdivision thereof in this State; unless the proposition to create such debt, shall have been submitted to a vote of such qualified electors as shall have paid a property tax therein, in the year preceding such election, and a majority of those voting thereon shall have voted in favor of incurring such debt.

SEC. 4. When authorized to create indebtedness as provided in Section three of this Article, no county shall become indebted to an amount, including existing indebtedness, exceeding two per centum. No city, town, school district or other municipal corporation, shall become indebted to an amount, including existing indebtedness, exceeding four per centum of the value of the taxable property therein, the value to be ascertained by the last assessment for State and county purposes, previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes; Provided, That no part of the indebtedness allowed in this section, shall be incurred for other than strictly county, city, town or school district

purposes: Provided, further, That any city or town when authorized as provided in section three of this article, may be allowed to incur a larger indebtedness, not exceeding four per centum additional, for supplying such city or town with water, artificial light or sewers, when the works for supplying such water, light and sewers, shall be owned and controlled by the municipality.

SEC. 5. All moneys borrowed by, or on behalf of the State, or any legal subdivision thereof, shall be used solely for the purpose specified in the law authorizing the loan.

SEC. 6. The State shall not assume the debt, or any part thereof, of any county, city, town or school district.

SEC. 7. Nothing in this article shall be so construed as to impair or add to the obligation of any debt heretofore contracted, in accordance with the laws of Utah Territory, by any county, city, town or school district, or to prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose, which, according to said laws, may have been submitted to a vote of the qualified electors of any county, city, town or school district before the day on which this Constitution takes effect.

ARTICLE XV.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied male inhabitants of the State, between the ages of eighteen and forty-five years, except such as are exempt by law.

SEC. 2. The Legislature shall provide by law for the organization, equipment and discipline of the militia, which shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

ARTICLE XVI.

LABOR.

SECTION 1. The rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State.

SEC. 2. The Legislature shall provide by law, for a Board of Labor, Conciliation and Arbitration, which shall fairly represent the interests of both capital and labor. The Board shall perform duties, and receive compensation as prescribed by law.

SEC. 3. The Legislature shall prohibit:

1. The employment of women, or of children under the age of fourteen years, in underground mines.

2. The contracting of convict labor.

3. The labor of convicts outside prison grounds, except on public works under the direct control of the State.

4. The political and commercial control of employes.

SEC. 4. The exchange of black lists by railroad companies or other corporations, associations or persons is prohibited.

SEC. 5. The right of action to recover damages for injuries resulting in death, shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation.

SEC. 6. Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, county or municipal governments; and the Legislature shall pass laws to provide for the health and safety of employes in factories, smelters and mines.

SEC. 7. The Legislature, by appropriate legislation, shall provide for the enforcement of the provisions of this article.

ARTICLE XVII.

WATER RIGHTS.

SECTION 1. All existing rights to the

use of any of the waters in this State for any useful or beneficial purpose, are hereby recognized and confirmed.

ARTICLE XVIII.

FORESTRY.

SECTION 1. The Legislature shall enact laws to prevent the destruction of and to preserve the forests on the lands of the State, and upon any part of the public domain, the control of which may be conferred by Congress upon the State.

ARTICLE XIX.

PUBLIC BUILDINGS AND STATE INSTITUTIONS.

SECTION 1. All institutions and other property of the Territory, upon the adoption of this Constitution, shall become the institutions and property of the State of Utah.

SEC. 2. Reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and dumb, and such other institutions as the public good may require, shall be established and supported by the State in such manner, and under such boards of control as may be prescribed by law.

SEC. 3. The Public Institutions of the State are hereby permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the Act of Congress, approved July 16th, 1894, to be disposed of and used in such manner as the Legislature may provide:

First. The Seat of Government, and the State Fair at Salt Lake City, and the State Prison in the County of Salt Lake.

Second. The Institutions for the Deaf and Dumb, and the Blind, and the State Reform School at Ogden City, in the County of Weber.

Third. The State Insane Asylum at Provo City, in the County of Utah.

ARTICLE XX.

PUBLIC LANDS.

SECTION 1. All lands of the State that have been, or may hereafter be granted to the State by Congress, and all lands acquired by gift, grant or devise, from any person or corporation, or that may otherwise be acquired, are hereby accepted, and declared to be the public lands of the State; and shall be held in trust for the people, to be disposed of as may be provided by law, for the respective purposes for which they have been or may be granted, donated, devised or otherwise acquired.

ARTICLE XXI.

SALARIES.

SECTION 1. All State, district, city, county, town and school officers, excepting notaries public, boards of arbitration, court commissioners, justices of the peace and constables, shall be paid fixed and definite salaries: Provided, That city justices may be paid by salary when so determined by the mayor and council of such cities.

SEC. 2. The Legislature shall provide by law, the fees which shall be collected by all officers within the State. Notaries public, boards of arbitration, court commissioners, justices of the peace, and constables paid by fees, shall accept said fees as their full compensation. But all other State, district, county, city, town and school officers, shall be required by law to keep a true and correct account of all fees collected by them, and to pay the same into the proper treasury, and the officer whose duty it is to collect such fees shall be held responsible under his bond for the same.

ARTICLE XXII.

MISCELLANEOUS.

SECTION 1. The Legislature shall provide by law, for the selection by each

head of a family, an exemption of a homestead, which may consist of one or more parcels of land, together with the appurtenances and improvements thereon, of the value of at least fifteen hundred dollars, from sale on execution.

SEC. 2. Real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried.

ARTICLE XXIII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of all the members elected to each of the two houses, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays taken thereon; and the Legislature shall cause the same to be published in at least one newspaper in every county of the State, where a newspaper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State, for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution. If two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately.

SEC. 2. Whenever two-thirds of the members, elected to each branch of the Legislature, shall deem it necessary to call a convention to revise or amend

this Constitution, they shall recommend to the electors to vote at the next general election for or against a convention, and, if a majority of all the electors, voting at such election, shall vote for a convention, the Legislature, at its next session, shall provide by law for calling the same. The convention shall consist of not less than the number of members in both branches of the Legislature.

SEC. 3. No Constitution, or amendments adopted by such convention, shall have validity until submitted to and adopted by a majority of the electors of the State voting at the next general election.

ARTICLE XXIV.

SCHEDULE.

SECTION 1. In order that no inconvenience may arise, by reason of the change from a Territorial to a State government, it is hereby declared that all writs, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, both public and private, shall continue as if no change had taken place; and all process which may issue, under the authority of the Territory of Utah, previous to its admission into the Union, shall be as valid as if issued in the name of the State of Utah.

SEC. 2. All laws of the Territory of Utah now in force, not repugnant to this Constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature. The act of the Governor and Legislative Assembly of the Territory of Utah, entitled, "An Act to punish polygamy and other kindred offenses," approved February 4th, A. D. 1892, in so far as the same defines and imposes penalties for polygamy, is hereby declared to be in force in the State of Utah.

SEC. 3. Any person, who, at the time of the admission of the State into the

Union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the Territory of Utah, shall continue to be so held or confined, until discharged therefrom by the proper courts of the State.

SEC. 4. All fines, penalties and forfeitures accruing to the Territory of Utah, or to the people of the United States in the Territory of Utah, shall inure to this State, and all debts, liabilities and obligations of said Territory, shall be valid against the State, and enforced as may be provided by law.

SEC. 5. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a State government, shall remain valid, and shall pass to and be prosecuted in the name of the State; and all bonds executed to the Governor of the Territory, or to any other officer or court in his or their official capacity, or to any official board for the benefit of the Territory of Utah, or the people thereof, shall pass to the Governor or other officer, court or board, and his or their successors in office, for the uses therein, respectively expressed, and may be sued on, and recovery had, accordingly. Assessed taxes and all revenue, property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, claims and debts, of whatsoever description; and all records and public archives of the Territory of Utah, shall issue and vest in the State of Utah, and may be sued for and recovered, in the same manner, and to the same extent by the State of Utah, as the same could have been by the Territory of Utah; and all fines, taxes, penalties and forfeitures, due or owing to any county, municipality or school district therein, at the time the State shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the county, municipality or school district, as the case may be, and payment

thereof be enforced under the laws of the State.

SEC. 6. All criminal prosecutions, and penal actions, which may have arisen, or which may arise before the change from a Territorial to a State Government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State, and in the court having jurisdiction thereof. All offenses committed against the laws of the Territory of Utah, before the change from a Territorial to a State government, and which shall not have been prosecuted before such change, may be prosecuted in the name, and by the authority of the State of Utah, with like effect as though such change had not taken place, and all penalties incurred shall remain the same, as if this Constitution had not been adopted.

SEC. 7. All actions, cases, proceedings and matters, pending in the Supreme and District Courts of the Territory of Utah, at the time the State shall be admitted into the Union, and all files, records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred to the Supreme and District Courts of the State respectively; and thereafter all such actions, matters and cases, shall be proceeded with in the proper State courts. All actions, cases, proceedings and matters which shall be pending in the District Courts of the Territory of Utah, at the time of the admission of the State into the Union, whereof the United States Circuit or District Courts might have had jurisdiction had there been a State government at the time of the commencement thereof respectively, shall be transferred to the proper United States Circuit and District Courts respectively; and all files, records, indictments and proceedings relating thereto, shall be transferred to said United States Courts: Provided, That no civil actions, other than causes and proceedings of which

the said United States courts shall have exclusive jurisdiction, shall be transferred to either of said United States Courts except upon motion or petition by one of the parties thereto, made under and in accordance with the act or acts of the Congress of the United States, and such motion and petition not being made, all such cases shall be proceeded with in the proper State courts.

SEC. 8. Upon a change from Territorial to State government, the seal in use by the Supreme Court of the Territory of Utah, until otherwise provided by law, shall pass to and become the seal of the Supreme Court of the State, and the several District Courts of the State may adopt seals for their respective courts, until otherwise provided by law.

SEC. 9. When the State is admitted into the Union, and the District Courts in the respective districts are organized, the books, records, papers and proceedings of the probate court in each county, and all causes and matters of administration pending therein, upon the expiration of the term of office of the Probate Judge, on the second Monday in January, 1896, shall pass into the jurisdiction and possession of the District Court, which shall proceed to final judgment or decree, order or other determination in the several matters and causes, as the Territorial Probate Court might have done, if this Constitution had not been adopted. And until the expiration of the term of office of the Probate Judges, such Probate Judges shall perform the duties now imposed upon them by the laws of the Territory. The District Court shall have appellate and revisory jurisdiction over the decisions of the Probate Courts, as now provided by law, until such latter courts expire by limitation.

SEC. 10. All officers, civil and military, now holding their offices and appointments in this Territory by authority of law, shall continue to hold and

exercise their respective offices and appointments, until superseded under this Constitution: Provided, That the provisions of this section shall be subject to the provisions of the Act of Congress, providing for the admission of the State of Utah, approved by the President of the United States on July 16th, 1894.

SEC. 11. The election for the adoption or rejection of this Constitution, and for State officers herein provided for, shall be held on the Tuesday next after the first Monday in November, 1895, and shall be conducted according to the laws of the Territory, and the provisions of the Enabling Act; the votes cast at said election shall be canvassed, and returns made, in the same manner as was provided for in the election for delegates to the Constitutional Convention.

Provided, That all male citizens of the United States, over the age of twenty-one years, who have resided in the Territory for one year prior to such election, are hereby authorized to vote for or against the adoption of this Constitution, and for the State Officers herein provided for. The returns of said election shall be made to the Utah Commission, who shall cause the same to be canvassed, and shall certify the result of the vote for or against the Constitution, to the President of the United States, in the manner required by the Enabling Act; and said Commission shall issue certificates of election to the persons elected to said offices severally, and shall make and file with the Secretary of the Territory, an abstract, certified to by them, of the number of votes cast for each person for each of said offices, and of the total number of votes cast in each county.

SEC. 12. The State officers to be voted for at the time of the adoption of this Constitution, shall be a Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Instruction, members

of the Senate and House of Representatives, three Supreme Judges, nine District Judges, and a Representative to Congress.

SEC. 13. In case of a contest of election between candidates, at the first general election under this Constitution, for Judges of the District Courts, the evidence shall be taken in the manner prescribed by the Territorial laws, and the testimony so taken shall be certified to the Secretary of State, and said officer, together with the Governor and the Treasurer of the State, shall review the evidence, and determine who is entitled to the certificate of election.

SEC. 14. This Constitution shall be submitted for adoption or rejection, to a vote of the qualified electors of the proposed State, at the general election to be held on the Tuesday next after the first Monday in November, A. D. 1895. At the said election the ballot shall be in the following form:

For the Constitution. Yes. No.

As a heading to each of said ballots there shall be printed on each ballot the following Instructions to Voters:

All persons desiring to vote for the Constitution must erase the word "No."

All persons desiring to vote against the Constitution must erase the word "Yes."

SEC. 15. The Legislature, at its first session, shall provide for the election of all officers, whose election is not provided for elsewhere in this Constitution, and fix the time for the commencement and durations of their terms.

SEC. 16. The provisions of this Constitution shall be in force from the day on which the President of the United States shall issue his proclamation, declaring the State of Utah admitted into the Union; and the terms of all officers elected at the first election under the provisions of this Constitution, shall commence on the first Monday, next succeeding the issue of said proclamation. Their terms of office

shall expire when their successors are elected and qualified under this Constitution.

Done in Convention at Salt Lake City, in the Territory of Utah, this eighth day of May, in the year of our Lord one thousand eight hundred and ninety-five, and of the Independence of the United States the one hundred and nineteenth.

JOHN HENRY SMITH,

Attest: President.

PARLEY P. CHRISTENSEN,
Secretary.

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- on proposition on prohibition, 263, 272.
- on report of committee on rules to increase committee on schedule, 268.
- on motion to amend section 10, bill of rights, 282, 291.
- on motion to amend section 13, bill of rights, 313.
- on motion to amend section 2, education and school lands, 371.
- on motion to close debate on suffrage, 571.
- on motion to amend section 2, elections and suffrage, 601.
- on motion to amend section 22, bill of rights, 637.
- on motion to amend section 1, executive, 658.
- on motion to amend section 3, executive, 660.
- on motion to amend section 6, municipal corporations, 670.
- on report of chairman of committee on accounts and expenses, 712.
- on motion to recommit elections and suffrage, 714, 715, 716, 726.
- on voting on section 1, suffrage, 767, 769.
- on voting on elections and suffrage, 804.
- on motion to amend section 1, public lands, 813.
- on motion to amend section 1, militia, 816, 818.

BOWDLE, J. R. (Continued).

Remarks—

- on motion to go into committee of the whole, 819.
- on motion to strike out section 1 apportionment, 823.
- on motion to amend section 4, apportionment, 845.
- on motion to amend section 4, apportionment, 852, 853, 854.
- on motion to strike out section 12, legislative, 869.
- on motion to amend section 13, legislative, 872, 873.
- on motion to adopt section 1, minority report, legislative, 894.
- on substitute to section 12, executive, 932.
- on motion to strike out section 33, legislative, 937.
- on point of order on Evans, 963.
- on motion to reconsider section 36, legislative, 981, 982.
- on voting to reconsider section 36, legislative, 1003.
- on voting on legislative article, 1004.
- on Anderson's motion to amend rules, 1006.
- on motion to amend section 20, executive, 1025.
- on motion to amend section 1, labor and arbitration, 1037, 1038, 1039.
- on motion to amend section 3, labor and arbitration, 1055.
- on motion to strike out section 5, labor and arbitration, 1058.
- on motion to amend section 1, public debt, 1120, 1122.
- on motion to amend section 3, public debt, 1130.
- on motion to receive and file petitions, 1182.
- on motion to amend section 4, public debt, 1189, 1192.
- on motion to amend section 3, education, 1229, 1230, 1231, 1236.
- on motion to amend section 5, education, 1273, 1277, 1308.
- on motion to amend section 7, education, 1290, 1291.

BOWDLE, J. R. (Continued.)

Remarks—

- on motion to amend section 10, education, 1292.
- on motion to amend section 2, education, 1303.
- on motion to amend section 5, judiciary, 1317.
- on motion to amend section 8, judiciary, 1323.
- on motion to amend section 20, judiciary, 1326, 1379.
- on motion to amend section 15, judiciary, 1396.
- on mines and mining, 1415, 1416, 1417, 1425, 1426, 1428, 1525, 1532, 1533.
- on motion to adopt majority report on prohibition, 1451, 1460.
- on corporations, 1464, 1549.
- on section 2, corporations, 1467, 1468.
- on motion to amend section 9, corporations, 1468.
- on motion to reconsider section 14, elections, 1484, 1490.
- on point of order on section 5, judiciary, 1502.
- on motion to amend section 5, judiciary, 1519.
- on motion to strike out section 14, corporations, 1558, 1663, 1665.
- on section 21, corporations, 1564, 1565.
- on section 23, corporations, 1573.
- on section 25, corporations, 1582.
- on section 26, corporations, 1589, 1590, 1591.
- on section 1, public lands, 1605.
- on section 3, public lands, 1607, 1610.
- on schedule, 1635, 1637, 1644.
- on section 38, corporations, 1679, 1680.
- on miscellaneous, 1768, 1769, 1779, 1784, 1795, 1799.
- on committee on address, 1787.
- on revision, 1789, 1806, 1829, 1830.
- on voting on miscellaneous, 1801.
- on compensation of stenographer, 1826.
- on printing record, 1837, 1838, 1841, 1845.
- on decorations in hall, 1848.

BOWDLE, J. R. (Continued.)

Seconds Kimball's motion on printing, rules, 80.

BOYER, J. S., Member from Springville, Utah County.

Appointed—

- on committee on federal relations, 65.
- on committee on salaries of public officers, 67.

Asks privilege of floor for Mayor Gale, of Springville, 602.

Moves—

- to amend, relating to clerk's salaries, 150.
- to rise and report, 513.
- to strike out section 2, amendments, 674.
- to amend section 20, legislative, 883, 936.
- to amend section 2, taxation and revenue, 1177.
- to amend section 7, public debts, 1199.
- to amend section 8, judiciary, 1505.
- to amend section 2, salaries, 1613.
- to amend section 9, corporations, 1658, 1661.
- to amend section 37, corporations, 1680.
- to amend section 3, public buildings, 1706.
- to amend section 1, miscellaneous, 1769, 1797.
- to amend on revision, 1805.

Presents—

- petition on prohibition from citizens of Springville, 316.
- petition for separate submission of suffrage, 1084.
- petition for suffrage to go in the Constitution, 1084.

Remarks—

- on Christianson reporting death of his brother, 52.
- on motion to adopt report of committee on stenographer, 92.
- on reading report of committee on expense, 146.

BOYER, J. S. (Continued.)

Remarks—

- on election of committee clerk, 160, 161.
- on proposition on boundaries, 165.
- on reading of motion on Coray, 221.
- on motion on Coray, 222.
- on motion to amend section 12, bill of rights, 312.
- on motion to amend section 23, bill of rights, 331.
- on section 1, elections and rights of suffrage, 486, 487.
- on motion to rise and report, 513.
- on suffrage, 561, 563, 576.
- on motion to amend section 22, bill of rights, 636, 637.
- on voting on bill of rights, 651, 652.
- on voting on elections and suffrage, 803.
- on motion to strike out section 11, legislative, 868.
- on motion to amend section 20, executive, 1020.
- on motion to strike out section 5, taxation and revenue, 1102.
- on motion to amend section 3, public debt, 1129.
- on motion to amend section 4, public debt, 1188, 1189, 1191.
- on motion to amend section 20, judiciary, 1326.
- on motion to adopt majority report on prohibition, 1454, 1464.
- on section 3, public buildings, 1619.
- on public lands, 1700.
- on voting on corporations, 1705.
- on section 3, public buildings, 1707, 1717.
- on miscellaneous, 1779.

BRANDLEY, THEODORE, Member from Richfield, Sevier County.

Appointed—

- on legislative committee, 65.
- on committee on water rights and irrigation, 66.
- on committee on engrossment and enrollment, 67.
- on committee to prepare address, 1802.

Opened by prayer, 1476.

BRANDLEY, THEO. (Continued.)

Presents—

- proposition for insertion in Constitution on referendum, 203.
- petition for separate submission of suffrage, 809, 934.
- resolution to relieve sufferers in mine disaster, Wyoming, 319.

Remarks on voting on legislative article, 1004.

BACHMAN, BEN.

- nominated as committee clerk, 120, 124.
- nomination withdrawn, 121.

BARTLETT, REV. DANA W.

- of the Congregational Church, offered prayer, 180, 456.

BEATES, REV. JAMES F.

- of the Lutheran Church, offered prayer, 65.

BUTTON, H. G., Member from Second Precinct, Salt Lake City.

Appointed—

- on committee on public lands, 66.
- on committee on ordinance, 67.

Moves—

- to lay motion on seats on table, 72.
- to suspend rules and elect Clawson by acclamation, 49.
- to amend motion to elect committee clerk, 123.
- to rise and report, 577.
- for recess, 513, 600, 784, 1818.
- to reject portion of report, 147.
- that it be read by title and referred, 162.
- to amend motion to adjourn, 168.
- to read report of committee on boundaries, 191.
- to pass section 5, bill of rights, 257.
- to increase fine of absent members, 304.
- an amendment to rule 20, 393.
- to adjourn, 766, 1682.

BUTTON, H. G. (Continued).

Moves—

- to amend section 8, elections and suffrage, 783.
- to amend section 20, executive, 1017.
- to amend labor and arbitration, 1068.
- to lay section 14, taxation and revenue, on table, 1178.
- the previous question on mines and mining, 1529.
- to rise and report progress, 1583, 1584.
- to lay Coray's resolution on table, 1587.
- to suspend rules and limit debate, 1588.
- to amend section 29, corporations, 1594.
- to strike out section 4, public buildings, 1626.
- to pass to third reading, article on public buildings, 1629.
- to amend section 9, corporations, 1658.
- a new section to corporations, 1677.
- the previous question, 1758.
- to amend motion for committee on address, 1787.
- on revision, 1817, 1818.
- to put address in minutes, 1846.

Presents—

- petition for separate submission of suffrage, 711, 976.
- petition in favor of prohibition, 1232.

Remarks—

- on motion for committee to select stenographer, 46.
- on election of committee clerks, 48.
- on Goodwin's appointment as chairman of judiciary committee, 67.
- on adopting report of committee on site, 68.
- on hiring janitor, 69.
- on desks, 71.
- on question of selecting seats, 72, 73.
- on election of committee clerks, 121, 123.
- on report of committee on expenses, 147, 149, 151.
- on motion to suspend rules, 164, 165.

BUTTON, H. G. (Continued).

Remarks—

- on motion to adjourn, 168, 169, 170.
- on chairman announcing committee meetings, 173.
- on call for previous question, 196.
- on resolution on stenographer, 224.
- on section 4, bill of rights, 247.
- on motion to set time to report on elections and suffrage, 317.
- on motion to amend section 2, education and school lands, 380, 381,
- on suffrage, 553, 579.
- on motion to take a recess, 599, 600, 601.
- on point of order on chair, 620.
- on motion to amend section 22, bill of rights, 640.
- on motion to amend section 1, executive, 658.
- on motion to amend section 6, executive, 664.
- on motion to postpone action on elections and suffrage, 692.
- on Wells's motion to amend section 1, elections and suffrage, 711.
- on motion to recommit elections and suffrage, 717, 764.
- on point of order on Cannon, 724.
- on rules, 751.
- on voting on section 1, elections and suffrage, 767.
- on voting on elections and suffrage, 804.
- on motion to amend section 1, militia, 816.
- on motion to adopt section 4, minority report on legislative, 892.
- on a point of order on Maloney, 903.
- on Roberts's amendment to legislative article, 920.
- on motion to strike out section 35, legislative, 947.
- on point of order, 958, 1727.
- on motion to amend section 8, legislative, 1004.
- on voting on legislative article, 1005.
- on motion to amend section 20, executive, 1020.

BUTTON, H. G. (Continued.)

Remarks—

- on motion to amend section 1, labor and arbitration, 1034, 1038.
- on motion to amend section 3, labor and arbitration, 1054.
- on motion to reconsider section 1, elections and suffrage, 1145.
- on amendment to labor, 1172.
- on motion to amend section 4, public debt, 1189.
- on water right, 1204, 1205.
- on motion to amend section 3, education, 1231.
- on motion to amend section 10, education, 1294.
- on motion to amend section 5, judiciary, 1318.
- on motion to strike out section 2, education, 1332.
- on motion to amend section 4, education, 1354.
- on mines and mining, 1424, 1527, 1528, 1533, 1536.
- on motion for night sessions, 1477.
- on motion to take consideration of section 14 from table, 1481, 1489, 1490, 1491.
- on section 21, corporations, 1565.
- on section 26, corporations, 1590, 1591.
- on section 29, corporations, 1595.
- on section 6, public buildings, 1627.
- on section 6, schedule, 1632.
- on section 9, schedule, 1636.
- on section 9, corporations, 1660.
- on revision, 1788, 1806, 1822, 1849.
- on printing Constitution, 1825.
- on voting on Constitution, 1834.

Seconds nomination of R. Clawson, sergeant-at-arms, 49.

BURLEY, D. E., general agent U. P. Ry.
letter from, 175.

BUYS, WILLIAM, Member from Heber,
Wasatch County.

Appointed—

- on committee to name standing committees, 38.
- on committee on federal relations, 65.

BUYS, WILLIAM (Continued.)

Appointed—

- on committee on corporations, 66.
- on committee on ordinance, 67.
- chairman of committee of the whole, 496.

Moves—

- to amend section 4, bill of rights, 249, 365.
- to amend section 5, bill of rights, 252.
- to amend section 3, counties, cities and towns, 399.
- to amend substitute to section 14, elections and suffrage, 793, 800.
- to amend section 14, legislative, 879.
- to amend section 15, legislative, 879.
- to amend section 27, legislative, 885.
- to amend section 31, legislative, 886.
- to strike out section 35, legislative, 887.
- to amend section 31, legislative, 975.
- to amend on revision, 1831.

Presents—

- proposition for insertion in Constitution on income tax, 244.
- proposition for insertion in Constitution on protection of dairy products, 299.

Remarks—

- on resolution on Coray, 220.
- on motion to amend section 4, bill of rights, 245, 249.
- on motion to amend section 5, bill of rights, 252.
- on petition on prohibition, 263.
- on motion to amend section 13, bill of rights, 315.
- on motion to amend section 23, bill of rights, 338.
- on motion to amend section 24, bill of rights, 355.
- on motion to amend section 6, municipal corporations, 673.
- on motion to strike out or amend section 3, elections and suffrage, 776, 777.
- on motion to amend section 14, elections and suffrage, 788, 795.

BUYS, WILLIAM (Continued.)

Remarks—

- on motion to amend section 4, apportionment, 845, 846, 854, 858.
- on motion to amend section 27, legislative, 885.
- on motion to amend section 31, legislative, 974, 975.
- on section 4, taxation and revenue, 1177.
- on motion to amend section 10, education, 1297, 1299.
- on motion to amend section 5, judiciary, 1319.
- on motion to amend section 1, judiciary, 1403, 1412.

CALL, CHESTER, Member from Bountiful, Davis County.

Appointed—

- on committee on elections and suffrage, 66.
- on committee on revenue, taxation and public debt, 67.

Presents—

- memorial from women of Davis County on suffrage, 216.
- petition from citizens of Davis County on suffrage, 263.
- petition for suffrage to go into Constitution, 934.

Remarks—

- on motion to recommit elections and suffrage, 752.

CANNON, GEORGE M., Member from Salt Lake County.

Appointed—

- on committee on corporations, 66.
- chairman of committee on revenue, taxation and public debt, 66.

Accepts amendment of Squires on committee clerks, 47.

Called to the chair in committee of the whole, 1202.

Called to the chair during the absence of the president, 1811.

Excused, 55.

CANNON, GEORGE M. (Continued.)

Moves—

- for committee of five on rules and order of business, 12.
- to adjourn, 141.
- to elect committee clerks, 123.
- to amend rules, 37, 138.
- to amend, relating to salaries of clerks, 150.
- to refer to committee, 154.
- to amend and refer, 155, 156.
- for previous question, 171, 194, 196.
- for committee of three to revise minutes, 189.
- a resolution on election of permanent officers, 43.
- that propositions be received and referred, 192.
- to adjourn, 193, 196, 1798, 1813.
- for previous question, 194, 195.
- to rise and report, 207.
- to suspend rules on propositions, 217.
- to receive and file part of report of committee on expenses, 298.
- on incurring expense, 299.
- to amend section 2, counties, cities and towns, 398.
- to amend motion on section 3, counties, cities and towns, 399.
- to go into committee of the whole, 491, 703.
- to not rise until Roberts closes, 519.
- to stop debate on suffrage, 553.
- to adjourn to some place where the people could hear Roberts, 577.
- to strike out section 13, elections and suffrage, 615.
- for evening sessions, 621.
- a substitute for amendments to section 3, amendments, 676.
- point of order on Eldredge's motion to postpone, 704.
- for recess, 737.
- to amend section 14, elections and suffrage, 792.
- to strike out section 14, elections and suffrage, 798.
- to adopt article on apportionment, 808.

CANNON, GEORGE M. (Continued.)

Moves—

- to recommend the adoption of article on militia, 819.
- to rise and report, 928, 1476.
- previous question on appeal from the chair, 972.
- to amend section 20, executive, 1027.
- to strike out section 1, labor and arbitration, 1032.
- to amend section 5, labor and arbitration, 1056.
- to report labor and arbitration, 1068.
- to lay motion to reconsider accounts on table, 1084.
- to amend section 13, taxation and revenue, 1115.
- to report taxation and revenue for third reading, 1116.
- to amend section 3, taxation and revenue, 1177.
- to amend section 1, public debt, 1184.
- to strike out section 4, education, 1307.
- to go into committee of the whole, 1331.
- a substitute for section 4, education, 1361.
- to amend section 14, corporations, 1557.
- to strike out sections 30 and 31, corporations, 1597.
- to strike out section 33, corporations, 1599.
- to strike out section 36, corporations, 1602.
- to place public lands on calendar, 1611.
- to amend section 2, salaries, 1612.
- to amend section 1, public lands, 1686.
- an appeal from the decision of the chair, 1728.
- a new section to miscellaneous, 1795, 1796, 1800.
- on revision, 1814, 1823, 1833.
- for Arthur Stayner to edit record, 1837.
- a resolution for bids on printing proceedings, 1846.

CANNON, GEORGE M. (Continued.)

Moves—

- for secretary to call on members who had not contributed to Wyoming relief fund, 1847.
- Nominates James N. Kimball for temporary chairman, 11.
- Offers substitute to fix time for committee meetings, 119.

Presents—

- proposition for insertion in Constitution on labor, 164.
- proposition for insertion in Constitution on discrimination in labor, 165.
- petition for separate submission of suffrage, 976.
- petition for suffrage to go into Constitution, 1032, 1181.

Remarks—

- on motion to refer back report on credentials, 31, 32.
- on motion to elect permanent officers, 45, 46, 48.
- on election of a stenographer, 54.
- on report of committee on site, 60.
- on resolution setting hour of meeting, 63.
- on question of desks, 71.
- on question of selecting seats, 73.
- on changing title of chief clerk to secretary, 80.
- on official stenographer, 94, 99, 100.
- on inserting name of church after the one officiating in prayer, 105.
- on introduction of propositions for Constitution, 114, 115.
- on resolution for stationery, 117, 118.
- on fixing times of committee meetings, 119.
- on electing committee clerks, 120, 123, 124, 125, 159, 160, 172.
- on point of order on Ivins, 123.
- on motion to amend rules, 138, 139, 140.
- on report of committee on accounts, 148, 149, 150, 151, 153, 154.
- on proposition on labor, 164.
- on motion to adjourn, 171, 188, 194.

CANNON, GEORGE M. (Continued.)

Remarks—

- on resolution on senators and representatives, 182, 183, 184.
- on motion to reconsider vote to refer minutes, 188, 189.
- on motion for additional clerk, 195.
- on proposition for insertion in Constitution, 201, 202.
- on article on boundary, 206.
- on resolution on report on education, 228.
- on motion to amend section 4, bill of rights, 233, 364.
- on motion to make report of committee on elections and suffrage special order, 266.
- on report to increase committee on schedule, future amendments and miscellaneous, 268, 269.
- on motion to receive and file report of committee on expenses, 298, 299.
- on motion to amend section 11, bill of rights, 305, 306.
- on motion to forward report on suffrage, 317.
- on motion to go into committee of whole to certain hour, 319.
- on motion to amend section 2, education and school lands, 376, 380, 386.
- on motion to refer back article on education and school lands, 395.
- on motion to amend section 3, counties, cities and towns, 399.
- on motion to take up elections and rights of suffrage, 413.
- on suffrage, 452, 490, 491, 519, 543, 553, 600, 1722.
- on motion for evening session, 492.
- on point of order for recess, 600.
- on motion to amend section 22, bill of rights, 629, 631, 648, 649, 650.
- on motion to amend section 1, executive, 657, 658.
- on motion to amend section 6, executive, 664.
- on motion to amend section 3, amendments, 676.
- on motion to postpone action on elections and suffrage, 679, 693, 702.

CANNON, GEORGE M. (Continued.)

Remarks—

- on point of order on Eichnor's amendment to section 1, elections and suffrage, 706.
- on Wells's amendment to section 1, elections and suffrage, 710.
- on motion to recommit elections and suffrage, 724, 725, 735, 736, 757.
- on point of order on Keisel's personalities, 734.
- on point of order on Eichnor, 756.
- on Jolley's absence, and tell how he expected to vote, 768.
- on motion to amend section 8, elections and suffrage, 783.
- on a point of order on motion to amend section 14, suffrage, 785.
- on motion to amend section 14, elections and suffrage, 792, 798, 799, 800, 1491, 1494.
- on apportionment, 807.
- on motion to recommit public lands, 814.
- on motion to go into committee of the whole, 820.
- on motion to amend section 4, apportionment, 824, 827, 843, 844.
- on motion to amend section 13, legislative, 869.
- on a point of order on Farr's motion to amend, 874.
- on section 30, legislative, 886.
- sustaining decision of chair, 896.
- on Roberts's amendment to legislative article, 904, 909, 916, 919, 920, 921, 922, 925, 926.
- on motion to strike out section 35, legislative, 939, 949.
- on motion to adopt substitute to section 36, legislative, 952, 953, 954.
- on a point of order, 957, 968.
- on appeal from chair on vote on section 36, legislative, 968, 969, 972.
- on motion to reconsider section 36, legislative, 973, 984, 986.
- on motion to amend section 31, legislative, 974.
- on petitions on suffrage, 976.
- on voting on legislative article, 1005.

CANNON, GEORGE M. (Continued.)

Remarks—

- on motion to amend section 20, executive, 1022, 1024.
- on motion to amend section 1, labor and arbitration, 1033, 1038, 1039, 1040.
- on motion to amend section 3, labor and arbitration, 1054.
- on motion to amend section 5, labor and arbitration, 1056.
- on taxation and revenue, 1069, 1071, 1072, 1073, 1177.
- on motion to amend section 4, taxation and revenue, 1079, 1080, 1177.
- on motion to strike out section 5, taxation and revenue, 1086, 1090, 1096, 1101, 1102, 1104, 1105, 1106, 1107, 1108.
- on section 7, taxation and revenue, 1108.
- on motion to strike out section 8, taxation and revenue, 1108, 1109, 1177.
- on motion to amend section 12, taxation and revenue, 1112, 1113, 1178.
- on motion to amend section 11, taxation and revenue, 1114, 1178.
- on motion to amend section 13, taxation and revenue, 1115.
- on motion to amend section 1, public debt, 1116, 1117, 1119, 1120, 1122, 1123, 1185, 1186.
- on motion to amend section 3, public debt, 1125, 1126, 1127, 1128, 1131, 1133, 1134, 1186, 1187.
- on motion to amend section 5, public debt, 1135, 1138, 1140, 1141, 1195, 1197.
- on article on labor, 1164, 1169, 1170.
- on motion to add section 14, taxation and revenue, 1178, 1179.
- on motion to file petitions, 1182.
- on motion to put public lands on calendar, 1184.
- on motion to amend section 4, public debt, 1190, 1191, 1192.
- on motion to amend section 5, education, 1252, 1273, 1275, 1283, 1309, 1340, 1347, 1348, 1351, 1362, 1363, 1367, 1369, 1370, 1371.
- on motion to amend section 1, education, 1294, 1299.

CANNON, GEORGE M. (Continued.)

Remarks—

- on motion to amend section 5, education, 1305, 1306, 1307.
- on motion to amend section 10, education, 1363.
- on voting on article on education, 1374.
- on motion to amend section 15, judiciary, 1394, 1395.
- on motion to amend section 3, mines and mining, 1427, 1525, 1533.
- on motion to adopt majority report on prohibition, 1464.
- on motion to amend section 9, corporations, 1469.
- on motion to amend section 11, corporations, 1470, 1554.
- on motion to amend section 8, judiciary, 1505.
- on section 1, judiciary, 1523.
- on section 22, corporations, 1570.
- on section 23, corporations, 1570.
- on section 25, corporations, 1579.
- on section 28, corporations, 1592, 1593.
- on section 29, corporations, 1594, 1596, 1597.
- on section 32, corporations, 1598.
- on section 34, corporations, 1600.
- on section 37, corporations, 1602.
- on point of order on motion to amend section 21, corporations, 1603.
- on section 1, public lands, 1606, 1687, 1688.
- on section 3, public lands, 1607, 1689.
- on salaries, 1611.
- on public buildings, 1626, 1627, 1727,
- on schedule, 1642, 1759, 1760, 1761, 1764, 1765.
- on section 38, corporations, 1680.
- on section 10, corporations, 1681.
- on section 4, public lands, 1690, 1692.
- on miscellaneous, 1780, 1783, 1784, 1787.
- on voting on miscellaneous, 1801.
- on revision, 1803, 1807, 1808, 1809, 1810, 1813, 1815, 1817, 1818, 1822, 1829.
- on resolution on engrossment, 1823.
- on printing Constitution, 1825.
- on motion to print proceedings, 1833, 1839, 1840, 1842, 1844.

CANNON, GEORGE M. (Continued.)

Remarks—

- on resolution of thanks for hall, 1849.
- on requesting a speech from the president, 1853.

Reports as chairman of committee on taxation, 225.

Seconds Richards's motion to adjourn, 215.

Seconds motion to amend section 3, executive, 663.

Seconds Thurman's motion to amend section 8, public debt, 1142.

Withdraws motion to adjourn, 193.

CANNON, PRESIDENT GEORGE Q.,
of the Church of Jesus Christ of Latter-day Saints.

opening prayer, 9, 10.

remarks before divine blessing, 9.

CHIDESTER JOHN F., Member from
Panguitch, Garfield County.

Appointed—

- on committee to name standing committees, 38.
- chairman of committee on elections and suffrage, 66.
- on committee on apportionment and boundary, 66.
- on committee on ordinance, 67.

Elected temporary sergeant-at-arms, 12.

Moves—

- to amend motion to make special order of report of committee, 266.
- to amend section 4, bill of rights, 231.
- to adjourn, 78.
- to suspend rules and refer propositions, 201, 225.
- a resolution from committee on committee clerks, 227, 228.
- to adopt report of committee on clerks, 227.
- to make the report of the committee on elections and suffrage a special order, 264, 265, 317, 411.
- to suspend rules, 272.
- to go into committee of the whole, 578, 1237.

CHIDESTER, JOHN F. (Continued.)

Moves—

- to amend section 2, municipal corporations, 669.
- to lay Varian's motion to recommit on table, 733.
- previous question on section 1, elections and suffrage, 765.
- to strike out section 5, taxation and revenue, 1084.
- to limit debate on reconsideration of suffrage, 1147.
- to receive and file petitions, 1181.
- to suspend rules and submit all petitions to clerk to file, 1182.
- a substitute for water rights, 1202.
- to report article on forestry, 1218.
- to amend section 4, education, 1360.
- for night sessions, 1476.
- to amend section 2, judiciary, 1497.
- previous question on section 3, mines and mining, 1545.
- previous question on resolution for final reading, 1587.
- to strike out section 28, corporations, 1592.
- to report article on corporations, 1604.
- previous question, 1745.
- to strike out section 2, miscellaneous, 1769.
- for committee to draft an address, 1787.
- to amend section 1, miscellaneous, 1797, 1798.
- to amend section 5, public lands, 1703.
- a vote of thanks for hall, 1849.

Presents—

- proposition for insertion in Constitution relative to counties, 111.
- proposition for insertion in Constitution on amendments, 113.
- proposition for insertion in Constitution on school lands, 192.
- petitions for suffrage to be placed in the Constitution, 852, 889, 934, 994, 1032, 1084, 1143, 1585.

Remarks—

- on motion to refer back report on credentials, 26.

CHIDESTER, JOHN F. (Continued.)

Remarks—

- on report of committee on standing committee, 58.
- on motion to change title of chief clerk to secretary, 80.
- on motion to adopt report of committee on stenographer, 92.
- on motion to read and refer proposition, 111.
- on motion to adjourn, 171.
- on resolution on senators and representatives, 179, 186.
- on clerk, 224, 227.
- on motion to amend section 4, bill of rights, 231, 239.
- on report of committee on elections and rights of suffrage, 264.
- on motion to amend section 12, bill of rights, 306.
- on motion to forward report on elections, 316, 317.
- on motion to amend section 24, bill of rights, 349.
- on section 4, bill of rights, 363.
- on motion to amend section 2, education and school lands, 380.
- on motion to refer back article on education and school lands, 396.
- on motion to take up elections and rights of suffrage, 408, 409, 414, 415.
- on suffrage, 429, 598, 599.
- on motion to refer section 10, bill of rights, 494.
- on motion to strike out section 10, elections and suffrage, 608.
- on motion to amend section 14, elections and suffrage, 616.
- on motion to postpone action on elections and suffrage, 681, 692.
- on Varian's motion to recommit elections and suffrage, 713, 753, 754, 756, 763.
- on point of order on Lewis, 747.
- on point of order on Eichnor, 756.
- on point of order on Roberts, 758.
- on Eldredge's motion to go into committee of the whole, 770.
- on motion to amend section 3, elections and suffrage, 776.

CHIDESTER, JOHN F. (Continued.)

Remarks—

- on motion to amend section 14, elections and suffrage, 784, 787, 791.
- on motion to suspend rules on elections and suffrage, 803.
- on militia article, 815.
- on motion to amend section 4, apportionment, 835, 836, 844.
- on motion to amend section 13, legislative, 873.
- on vote on section 36, legislative, 957, 958.
- on motion to reconsider section 36, legislative, 973, 980.
- on motion to amend section 20, executive, 1028.
- on motion to strike out section 5, taxation and revenue, 1092.
- on motion to reconsider suffrage, 1150.
- on motion to receive and file petitions, 1182.
- on motion to amend section 4, public debt, 1192.
- on water rights, 1202, 1203, 1204, 1205, 1207.
- on motion to amend section 2, education, 1224, 1226, 1227.
- on motion to amend section 5, judiciary, 1316.
- on motion to amend section 20, judiciary, 1328, 1329, 1384.
- on motion to amend section 4, education, 1353, 1354.
- on motion to amend section 1, judiciary, 1406, 1410.
- on motion to adopt majority report on prohibition, 1434.
- on motion for night sessions, 1478, 1479.
- on motion to amend section 2, judiciary, 1501.
- on point of order on motion to adjourn, 1522.
- on judiciary, 1522.
- on section 23, corporations, 1571.
- on resolution to record absentees, 1588.
- on a point of order, 1594.
- on section 1, public lands, 1605, 1688.

CHIDESTER, JOHN F. (Continued.)

Remarks—

- on salaries, 1613.
- on point of order on amendment to section 3, public buildings, 1626.
- on section 14, corporations, 1664.
- on section 25, corporations, 1677.
- on invitation to reception, 1683, 1684.
- on point of order on ruling of chair, 1727.
- on schedule, 1756.
- on miscellaneous, 1777, 1779, 1782, 1802,
- on legislative, 1787.
- on revision, 1802, 1803, 1806, 1829.
- on resolution to print Constitution, 1824.
- on compensation for stenographer, 1825.
- on invitation to Saltair, 1826.
- on printing proceedings, 1839, 1840, 1843.

Withdraws amendment to section 4, education, 1361.

Withdraws amendment to section 2, judiciary, 1501.

CHRISTIANSON, PARLEY, Member from Mayfield, Sanpete County.

Appointed—

- on committee on elections and suffrage, 66.
- on committee on manufactures and commerce, 67.

Excused on account of brother's death, 32.

Excused, 778.

Opened by prayer, 1142.

Moves—

- that nominations for enrolling clerk close, 50.
- to amend section 6, public buildings, 1627, 1628.

Presents—

- petition on prohibition, 668.

Remarks—

- on question of taking oath, 13.
- on suffrage, 573.

CHRISTIANSON, P. (Continued.)

Remarks—

- on voting on mines and mining, 1525, 1529.
- on final revision, 1850.

Takes oath as a member, 13.

CAMP, L. C., Salt Lake City.

- page, 2.
- elected page, 55.
- nominated by Geo. B. Squires for page, 55.
- sworn in as page, 55.

CHRISTENSEN, PARLEY P., of Grantsville, Tooele County.

- secretary of Convention, 2.
- elected chief clerk, 47.
- nominated by D. C. Eichnor, 47.
- sworn in as chief clerk, 55.
- reads report of committee on site to hold Convention, 59.
- reads report of committee on furniture, 61.

CLARK, MISS HENRIETTA, Salt Lake City.

- committee clerk, 2.
- nominated for committee clerk, by Evans, 120.
- elected committee clerk, 125.

CLARK, T. H., Member from Grantsville, Tooele County.

Appointed—

- on committee on apportionment and boundary, 66.
- on committee on salaries of public officers, 67.

Offered prayer, 1825.

Presents—

- proposition for insertion in Constitution on exemptions, 202.

Remarks—

- on motion to amend section 4, apportionment, 825.

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Remarks—

- on motion to amend section 13, legislative, 878.
- on motion to amend section 11, education, 1372.

CORAY, L. L., Member from Mona, Juab County.

Appointed—

- on committee on federal relations, 65.
- on committee on water rights and irrigation, 66.

Amending motion in relation to selecting seats, 72.

Calls for a ruling of the chair, 685.

Excused, 263, 1181.

Moves—

- that nominations close, 121.
- that announcements of committees and caucuses, 175.
- the previous question on resolution on senators and representatives, 187.
- to strike out matter from journal, 215.
- to amend section 24, bill of rights, 357.
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- to amend section 6, executive, 663.
- to amend section 8, executive, 666.
- previous question, 682, 683, 685.
- to amend section 2, ordinance, 807.
- to amend section 15, legislative, 936.
- to strike out section 1, water rights, 1233.
- to amend section 22, corporations, 1569, 1575, 1578.
- a resolution on tardy members, 1587.
- to amend section 23, corporations, 1669.
- to amend on revision, 1804.

Presents—

- proposition for insertion in Constitution on taxation, 166.

CORAY, L. L. (Continued.)

Remarks—

- on point of order on Creer, 721.
- on question of electing by acclamation, 50.
- on adoption of rules, 127.
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- on motion to amend section 11, executive, 667.
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- on motion to suspend rules on elections and suffrage, 803.
- on representative districts, 807.
- on motion to amend section 1, militia, 815.
- on motion to amend section 8, legislative, 934.
- on motion to adopt substitute for section 36, legislative, 951.
- on motion to reconsider section 36, legislative, 986.
- on motion to amend section 12, executive, 1014.
- on motion to amend section 20, executive, 1020, 1022, 1026.
- on motion to amend section 1, labor and arbitration, 1052.
- on motion to strike out section 5, taxation and revenue, 1099.
- on motion to amend section 12, taxation and revenue, 1112, 1113.
- on motion to amend section 3, public debt, 1131.
- on motion to reconsider section 1, suffrage, 1144, 1145.
- on article on labor, 1173.
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CORAY, L. L. (Continued.)

Remarks—

- on motion to adopt majority report on prohibition, 1439, 1464.
- on section 10, corporations, 1469.
- on reconsideration of section 9, judiciary, 1521.
- on resolution to record absent members, 1588.
- on section 6, public buildings, 1627.
- on miscellaneous, 1771.

CLAWSON, R., Ephraim, Sanpete County.

- sergeant-at-arms, 2.
- elected sergeant-at-arms, 49.
- nominated by A. C. Lund, 49.
- sworn in as sergeant-at-arms, 55.

CLAY, REV. B. F., of the Central Christian Church.

- offered prayer, 78, 1032.

CLARK, JOHN.

- granted freedom of floor, 331.

CLAYTON, N. W., manager Salt Lake & Los Angeles Ry.

- invites members to Saltair, 1526.

COBBS, CHAPLAIN, U. S. A.

- offered prayer, 621.

CORFMAN, E. E., Member from Provo, Utah County.

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on mines and mining, 67.
- on committee to name standing committees, 38.

Called to the chair in committee of the whole, 1649.

Moves—

- to amend section 3, public buildings, 1705.

CORFMAN, E. E. (Continued.)

Presents—

- proposition for insertion in Constitution relative to seat of government, 192.
- petition for separate submission of suffrage, 769, 934, 1181.

CRANE, CHARLES, Member from Kanosh, Millard County.

Appointed—

- on committee on apportionment and boundary, 66.
- chairman of committee on compilation and arrangement, 67.
- on committee to prepare an address, 1802.

Accepts Eichnor's amendment to resolution to adopt Constitution of the United States, 56.

Calls—

- assembly to order, 8.
- on C. C. Richards, secretary of the Territory, to read list of delegates, 10.
- on chief justice to swear members, 10.

Moves—

- for committee of seven in regard to furniture, 36.
- to adjourn, 38.
- in relation to voting for enrolling clerk, 50.
- to suspend rules and extend sympathy to Christianson, 52.
- to adopt Constitution of the United States, 55.
- for vote of thanks to agent R. G. W. Ry., 175.
- to rise and report, 577.
- to amend section 7, elections and suffrage, 778.
- a substitute for section 14, elections and suffrage, 785, 800.
- to amend section 7, judiciary, 1320.
- to amend section 12, judiciary, 1323.
- to amend section 20, judiciary, 1325, 1815.
- to amend section 5, judiciary, 1502.

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Moves—

- to take up final reading of articles, 1717.
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- to amend on revision, 1804, 1805, 1806, 1828.
- for Miss Clara Foltz to speak to Convention, 1846.
- to present flag, 1849.

Nominates—

- Ben Bachman, as committee clerk, 120, 124.
- Miss Emma Madison, 159.

Presents—

- President George Q. Cannon to pronounce the opening prayer, 9.
- temporary chairman Kimball, 11.
- proposition for insertion in Constitution on apportionment, 155.
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- proposition for insertion in Constitution on protecting live stock, 163.
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Remarks—

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- on motion to amend section 10, bill of rights, 493.
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- on resolution to change place of meeting to hear closing debate on suffrage, 578.
- on boundary, 207.
- on motion to amend section 14, elections and suffrage, 785, 786, 787, 789, 791, 794, 799, 800, 1480, 1481, 1486, 1487.
- on motion to strike out section 1, apportionment, 820, 821, 822.

CRANE, CHARLES (Continued.)

Remarks—

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- on motion to amend section 7, judiciary, 1321.
- on motion to amend section 15, judiciary, 1394.
- on section 8, judiciary, 1504.
- on motion to amend section 20, judiciary, 1514, 1516.
- on motion to amend section 25, judiciary, 1519.
- on mines and mining, 1531.
- on final reading of articles, 1587.
- on invitation to reception, 1684.
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- on ordinance, 1720.
- on revision, 1788, 1789, 1790, 1793, 1802, 1803, 1807, 1808, 1809, 1814, 1818.
- on resolution to print Constitution, 1824.
- on engrossing, 1827.
- on printing proceedings, 1839, 1845.
- Withdraws name of Ben Bachman as committee clerk, 121.

CARSON, REV. R., African Methodist Episcopal Church.
offered prayer, 243.

CROOK, ARCHDEACON, of the Episcopal Church.
offered prayer, 668.

CREER WM., Member from Spanish Fork, Utah County.

Appointed—

- on committee on preamble, 65.

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Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on public lands, 66.

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Calls for ayes and noes on motion to table Evans's resolution on Coray, 220.

Excused, 1032.

Moves—

- to adopt preamble, 650.
- to amend Evans's motion in relation to selecting seats, 72.
- that nominations close, 124.
- to adjourn, 189, 993, 1232.
- to amend Van Horne's motion to refer back, 152.
- to go into committee of the whole, 319.
- to adopt article on apportionment, 862.
- to amend the amendment to section 20, legislative, 882
- to amend section 14, executive, 1014, 1153.
- to pass labor article, 1175.
- to strike out section 1, water rights, 1218.
- to amend section 10, education, 1293.
- the previous question, 1367.
- a substitute to section 20, judiciary, 1387, 1389, 153.
- a substitute to section 2, miscellaneous, 1772.

Presents—

- proposition for insertion in Constitution on public buildings, 113.
- proposition for insertion in Constitution on sale and rental of public lands, 203.
- petition of citizens of Spanish Fork on prohibition, 419.
- petitions for separate submission of suffrage, 934.

Remarks—

- on report of committee on standing committees, 58.

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- on motion to amend section 11, bill of rights, 306.
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- on suffrage, 518, 536, 548.
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- on motion to amend section 6, municipal corporations, 672, 673.
- on motion to amend section 3, amendments, 676.
- on motion to postpone action on elections and suffrage, 684, 693.
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- on motion to amend section 2, elections and suffrage, 773.
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- on motion to amend section 1, militia, 817.

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Remarks—

on motion to amend section 4, apportionment, 833, 842.
on motion to strike out section 11, legislative, 868, 869.
on motion to amend section 13, legislative, 870.
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on motion to amend section 19, legislative, 880.
on motion to amend section 20, legislative, 882.
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on appeal from chair on vote on section 36, legislative, 962, 963, 970.
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on motion to amend section 12, executive, 1010, 1013.
on motion to amend section 14, executive, 1014, 1016, 1017.
on motion to amend section 20, executive, 1018, 1019, 1020, 1023, 1026.
on motion to amend section 12, taxation and revenue, 1110.
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Remarks—

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CUNNINGHAM, GEORGE, Member
from American Fork, Utah County.

Appointed—

- on committee on apportionment and boundaries, 66.
- on committee on municipal corporations, 66.

Presents—

- petition for separate submission of suffrage, 809.

Remarks—

- on motion to amend section 23, bill of rights, 336.
- on motion to amend section 5, public debt, 1139.
- on motion to amend section 5, labor, 1174.
- on section 4, public lands, 1693.

CUSHING, A. J., Member from Sandy,
Salt Lake County.

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on municipal corporations, 66.
- on committee on accounts and expenses, 67.

Presents—

- petition for separate submission of suffrage, 809.
- proposition for insertion in Constitution on cities, 163.
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Remarks—

- on report of committee on expenses, 152.
- on proposition for insertion in Constitution, 202.
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DRIVER, WILLIAM, Member from
Ogden, Weber County.

Appointed—

- on committee on preamble, 65.
- on committee on corporations, 66.
- on committee on manufactures and commerce, 67.

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- on motion to strike out section 10, elections and suffrage, 603.
- on suffrage, 621, 622.
- on Wells's motion to amend section 1, elections and suffrage, 710.
- on motion to recommit elections and suffrage, 746.
- on voting to reconsider section 36, legislative, 1003.
- on motion to amend section 10, education, 1293, 1294.
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DUNBAR, D. C.,

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- nominated for committee clerk, 124.

EICHNOR, D. C., Member from First
Precinct, Salt Lake City.

Appointed—

- to escort secretary to seat, 47.
- chairman of committee on municipal corporations, 66.
- on committee on labor and arbitration, 67.
- on committee on ordinance, 67.

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to amend section 19, legislative, 880.
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Nominates—

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stitution, 201.

on the order of business, 210.

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on motion to amend section 4, bill of
rights, 231, 233, 234, 235.

on motion to amend section 5, bill of
rights, 253.

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of rights, 277, 278, 288, 290, 291.

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on motion to amend section 11, bill
of rights, 305, 306.

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rights, 326.

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rights, 346, 347, 351.

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rights, 361.

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tion and school lands, 381, 383, 391.

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ties, cities, and towns, 398.

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counties, cities, and towns, 400, 401,
402, 403, 404.

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tions and rights of suffrage, 535,
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place to hear Roberts, 578.

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elections and suffrage, 603, 611, 615.

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- on motion to go into committee of the whole, 668, 819.
- on appeal from the chair on elections and suffrage, 708, 709.
- on motion to recommit elections and suffrage, 753, 754, 755, 756, 757, 560.
- on voting on section 1, elections and suffrage, 769.
- on motion to amend section 2, elections and suffrage, 772, 773.
- on motion to amend section 3, elections and suffrage, 774, 775, 777.
- on motion to amend section 8, elections and suffrage, 783.
- on motion to amend section 14, elections and suffrage, 784, 786, 789, 791, 797, 799, 1483.
- on voting on elections and suffrage, 804, 805.
- on motion to amend ordinance, 806, 811.
- on motion to recommit public lands, 813.
- on motion to go into committee of the whole, 819.
- on a point of order to amend section 2, apportionment, 860, 863.
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- on section 4, legislative, 866.
- on motion to strike out section 11, legislative, 868.
- on motion to amend section 13, legislative, 870, 873, 874.
- on motion to amend section 19, legislative, 881.
- on new section offered for legislative, 887.
- on Roberts's amendment to legislative article, 909, 912, 923.
- on substitute to section 12, executive, 929, 930, 931.
- on section 8, legislative, 935.
- on motion to strike out section 33, legislative, 937.

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Remarks—

- on motion to strike out section 35, legislative, 949.
- on motion to adopt section 36, legislative, 954.
- on vote for section 36, legislative, 957.
- on motion to amend section 31, legislative, 974, 975.
- on motion to reconsider section 36, legislative, 990, 991.
- on voting on legislative article, 1005.
- on motion to amend section 12, executive, 1006, 1007, 1010, 1014.
- on motion to amend section 20, executive, 1028, 1030, 1031, 1160.
- on motion to amend section 1, labor and arbitration, 1033.
- on motion to amend section 5, labor and arbitration, 1057, 1058, 1059, 1060.
- on motion to strike out section 9, labor and arbitration, 1067.
- on section 8, taxation and revenue, 1108.
- on motion to amend section 1, public debt, 1118, 1122, 1123, 1185.
- on motion to amend section 3, public debt, 1225, 1133, 1134.
- on voting on executive, 1163.
- on labor, 1166, 1171, 1174.
- on motion to add section 14 to taxation and revenue, 1178.
- on motion to amend section 5, taxation and revenue, 1178.
- on motion to amend section 4, public debt, 1188, 1189.
- on motion to amend section 3, education, 1230, 1231.
- on motion to reconsider adoption of accounts, 1236.
- on motion to amend section 5, education, 1249, 1259, 1286, 1340, 1360, 1367.
- on motion to reconsider section 4, elections, 1287.
- on motion to amend section 7, education, 1290, 1291.
- on motion on section 2, judiciary, 1314, 1501.
- on section 4, judiciary, 1314.

EICHNOR, D. C. (Continued.)

Remarks—

- on motion to amend section 5, judiciary, 1316.
- on section 8, judiciary, 1322, 1323, 1505.
- on motion to strike out section 2, education, 1333.
- on motion to add new section to education, 1372.
- on motion to amend section 20, judiciary, 1381, 1390.
- on motion to amend section 27, judiciary, 1393.
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- on mines and mining, 1416, 1417, 1421, 1422, 1527, 1528, 1533, 1539.
- on motion for night sessions, 1479.
- on motion to amend section 9, judiciary, 1508.
- on section 18, judiciary, 1513.
- on motion to amend section 25, judiciary, 1520.
- on motion to amend section 26, judiciary, 1521.
- on voting on judiciary article, 1524.
- on section 14, corporations, 1560, 1664, 1665.
- on section 23, corporations, 1570, 1571, 1572, 1576, 1668, 1669.
- on motion to record absent members, 1588.
- on section 26, corporations, 1590.
- on section 4, schedule, 1630.
- on schedule, 1636, 1640, 1641, 1653, 1739.
- on invitation to reception, 1684.
- on sections 20 and 21, bill of rights, 1719, 1720.
- on legislative, 1787.
- on revision, 1795, 1803, 1810, 1811, 1822.
- on engrossing, 1826, 1827.
- on motion to print proceedings, 1837.

Reports as chairman on municipal corporations, 224.

Seconds—

- Varian's appeal from decision of the chair, 705.
- Thurman's amendment to section 14, suffrage, 785.

EICHNOR, D. C. (Continued.)

Seconds—

- Anderson's motion to amend section 1, public lands, 813.
- motion to amend section 1, militia, 818.
- motion to refer back report on credentials, 14.
- Varian's appeal from decision of the chair, 705.
- Creer's motion on selecting seats, 72.
- motion to amend section 3, counties, cities and towns, 398.

Withdraws—

- motion to lay on table, 37.
- motion to refer election of committee clerks, 121.
- point of order, 860.

ELDREDGE, ALMA, Member from Coalville, Summit County.

Appointed—

- on committee on stenographer, 55.
- on judiciary committee, 66.
- chairman on committee on apportionment, 66.

Asked for roll call to be repeated, 957.

Called to chair of committee of the whole, 812.

Moves—

- to eliminate committee clerk, 47.
- to give Whitney thirty minutes to speak on suffrage, 579.
- to amend section 4, bill of rights, 245, 363.
- to amend rule 21, 213.
- for committee on organization, 37.
- to adjourn, 104, 194.
- to lay on table, 147, 189.
- to read article on boundary third time, 208.
- to amend section 3, municipal corporations, 669.
- to amend section 6, municipal corporations, 673, 674.
- to amend section 3, amendments, 677, 678.

ELDREDGE, ALMA (Continued.)

Moves—

- to postpone action on elections and suffrage, 703.
- to suspend rules and go into committee of the whole, 770.
- to amend section 3, elections and suffrage, 777.
- a substitute for section 14, elections and suffrage, 796.
- to amend section 4, legislative, 867.
- to amend section 20, executive, 1023.
- to strike out section 6, labor and arbitration, 1060.
- to strike out section 12, taxation and revenue, 1178.
- to amend elections and rights of suffrage, 1721.
- the previous question, 1753.
- a substitute to section 2, miscellaneous, 1798.
- to amend on revision, 1814, 1832, 1833.

Nominates Joseph A. Smith, for engrossing and enrolling clerk; 50.

Offered prayer, 1813.

Presents—

- petition asking that Convention adjourn to theater, 578.
- petition for separate submission of suffrage, 934.

Remarks—

- on motion to refer back report on credentials, 34.
- on election of committee clerks, 47, 48.
- on voting for enrolling clerk, 51.
- on Goodwin's appointment as chairman of judiciary committee, 68.
- on report on official stenographer, 98.
- on motion to refer correction of minutes, 174, 175, 189.
- on resolution of senators and representatives, 181, 182, 183, 186.
- on a point of order on Squires, 186.
- on article on boundary, 207, 208.
- on motion to amend section 3, bill of rights, 245, 247, 363, 364.
- on motion to make report of committee on elections and suffrage special order, 267.

ELDREDGE ALMA, (Continued.)

Remarks—

- on report to increase committee on schedule, future amendments and miscellaneous, 270.
- on motion to amend section 10, bill of rights, 280.
- on accounts and expenses, 298.
- on motion to amend section 12, bill of rights, 308.
- on motion to amend section 24, bill of rights, 348.
- on motion to amend section 2, education and school lands, 392.
- on motion to amend section 10, bill of rights, 493.
- on section 1, elections and rights of suffrage, 496, 498, 499, 500, 567.
- on motion to amend section 22, bill of rights, 625.
- on motion to postpone elections and suffrage, 704.
- on motion to recommit elections and suffrage, 736, 738, 741, 742.
- on motion to amend section 14, elections and suffrage, 796, 797, 1482, 1484, 1488.
- on apportionment, 807, 808.
- on motion to go into committee of the whole, 820.
- on motion to strike out section 1, apportionment, 822, 823.
- on motion to amend section 3, apportionment, 824.
- on motion to amend section 4, apportionment, 830, 848, 849.
- on motion to amend section 2, apportionment, 860, 862.
- on appeal from chair on vote on section 36, legislative, 963, 964, 965, 968.
- on motion to amend section 4, taxation and revenue, 1078, 1082, 1083.
- on motion to strike out section 5, taxation and revenue, 1098, 1099, 1100.
- on motion to amend section 3, public debt, 1133, 1134.
- on motion to amend section 5, public debt, 1137, 1138, 1195.
- on motion to amend section 20, executive, 1159.

ELDREDGE, ALMA (Continued.)

Remarks—

- on motion to strike out section 12, taxation and revenue, 1178.
- on motion to amend section 4, public debt, 1190, 1191.
- on water rights, 1211, 1215, 1218.
- on motion to amend section 5, education, 1281, 1285, 1286.
- on motion to amend section 10, education, 1296.
- on motion to amend section 2, education, 1304.
- on motion to amend section 2, judiciary, 1313.
- on motion to strike out section 2, education, 1333.
- on voting for substitute to section 4, education, 1372.
- on motion to amend new section to judiciary, 1392.
- on motion to adopt majority report on prohibition, 1462.
- on motion to strike out section 9, corporations, 1468.
- on public lands, 1688.
- on schedule, 1765.
- on miscellaneous, 1774.
- on revision, 1829.

Reports as chairman of committee on apportionment, 191.

Seconds nomination of Ben Bachman, 124.

Withdraws amendment to section 4, bill of rights, 247.

EMERY, GEORGE R., Member from Third Precinct, Salt Lake City.

Appointed—

- on executive committee, 66.
- on salaries of public officers, 67.

Moves—

- for a recess, 679.
- to amend section 12, executive, 1152.

Remarks—

- on motion for recess, 679.
- on section 10, corporations, 1681.

Seated by report of committee on credentials, 37.

ENGBERG, ANDERS, Member from Salem, Utah County.

Appointed—

- on committee on elections and suffrage, 66.
- on committee on labor and arbitration, 67.

Moves—

- to amend section 8, labor and arbitration, 1066.

Presents—

- petition for suffrage to go in Constitution, 994.

Remarks—

- on motion to strike out section 10, elections and suffrage, 602.

EVANS, DAVID, Member from Ogden, Weber County.

Appointed—

- on committee on credentials, 13.
- on committee on stenographer, 55.
- on committee on rules, 65.
- on committee on judiciary, 66.
- on committee on revenue, taxation and public debt, 67.

Amends Ivins's motion on rules, 89.

Appeals from decision of the chair, 242, 248, 365, 1677.

Called to chair in committee of the whole, 319, 805, 1006, 1375, 1627.

Excused for the day, 39.

Excused from acting on committee on stenographer, 55.

Moves—

- to give votes cast for Farr to Pratt, 52.
- to make vote for Joseph A. Smith unanimous, 53.
- to adopt report of committee on site, 68.
- in relation to selecting seats, 72.
- to adjourn, amended, 77.
- change title of chief clerk to secretary, 79.
- to correct minutes, 105.
- to refer to committees, 113.

EVANS, DAVID (Continued.)

Moves—

- an amendment on election of committee clerks, 121, 122.
- to amend rules, 137.
- to reject a portion of report, 146.
- to take report from table and remarks on it, 146.
- to amend motion to reject, 151.
- for regular order, 154.
- to have resolutions adopted, 173.
- to reconsider motion to go into committee of the whole, 203.
- to refer Coray's motion on announcements to committee on rules, 175.
- to refer proposition to committee, 201.
- for Coray to be brought before the bar of the house, 220.
- that F. T. McGurrin act in absence of F. E. McGurrin, 223.
- to amend Buys' motion on section 5, bill of rights, 252.
- to amend section 5, bill of rights, 257.
- to amend section 1, labor and arbitration, 1050.
- for chair to rebuke Squires, 1055.
- a substitute to section 7, labor and arbitration, 1060.
- to return letter to Squires as an insult to members, 1084.
- to amend section 12, taxation and revenue, 1110.
- to amend section 3, taxation and revenue, 1115.
- to amend section 1, public debt, 1116.
- to amend section 3, public debt, 1124.
- to amend section 5, public debt, 1135.
- the previous question on report on expenses, 1144.
- to amend motion to limit debate, 1147.
- a substitute to labor, 1164.
- a new section to taxation and revenue, 1178.
- to reject minority report on prohibition, 1183.
- to amend the amendment to section 1, public debt, 1184, 1186.
- to strike out section 3, public debt, 1186.

EVANS, DAVID (Continued.)

Moves—

- to amend section 5, public debt, 1193.
- to strike out section 5, public debt, 1197.
- to amend section 4, education, 1311.
- to strike out section 2, education, 1312.
- to strike out sections 1 and 2, mines and mining, 1431.
- to amend section 5, judiciary, 1503.
- to amend section 8, judiciary, 1506.
- a substitute to section 27, judiciary, 1520.
- to amend section 22, corporations, 1570.
- to amend section 3, public buildings, 1615.
- matter for section 23, corporations, 1668.
- to reinsert section 33, corporations, 1678.
- to amend section 10, bill of rights, 258.
- to withdraw former and offer substitute to amendment to section 10, bill of rights, 274, 283.
- to amend section 12, bill of rights, 306, 310.
- to amend section 13, bill of rights, 314, 1719.
- to rise and report, 315.
- to amend section 24, bill of rights, 357.
- to amend section 25, bill of rights, 365.
- to amend section 4, counties, cities and towns, 400.
- rise and report, 491.
- to read bill of rights by sections, 492.
- a substitute for section 10, bill of rights, 492.
- to refer section 10, bill of rights, to judiciary committee, 493.
- to strike out section 11, elections and suffrage, 615.
- to strike out section 12, elections and suffrage, 615.
- that section 10, bill of rights, be taken up, and offered substitute, 622.

EVANS, DAVID (Continued.)

Moves—

- to amend section 22, bill of rights, 624.
 - to amend section 2, executive, 660.
 - to amend section 3, amendments, 675.
 - to reconsider vote on inserting amendments, 677.
 - an amendment to motion for a recess, 729, 732.
 - to dispose of motion before house before recess, 737.
 - to amend section 3, elections and suffrage, 773.
 - a substitute to section 14, elections and suffrage, 798.
 - to pass ordinance, 811.
 - to amend section 1, public lands, 812.
 - to recommit article on public lands, 813.
 - to amend section 1, militia, 815.
 - to strike out section 11, legislative, 867.
 - to return invitation for signatures, 1684.
 - to amend section 4, public lands, 1690.
 - to amend ordinance, 1721.
 - to amend elections and right of suffrage, 1721.
 - the previous question, 1730.
 - to amend section 6, public buildings, 1734.
 - to amend section 9, schedule, 1760.
 - to amend on revision, 1818.
 - for Whitney to make report and read address, 1835.
- Nominates Miss Henrietta Clark as committee clerk, 120.
- Offered excuse for Spencer, 79.

Presents—

- resolution calling Convention to order, 8.
- resolution on permanent organization, 37.
- memorial from ladies of Weber County on suffrage, 142.
- report of committee on rules, 224.
- resolution on number and salaries of officers, 212.

EVANS, DAVID (Continued.)

Presents—

- proposition to go into Constitution on suffrage, 101.
- proposition to go into Constitution to preserve the purity of the ballot, 101.
- proposition for insertion in Constitution on free passes, 102.
- proposition for insertion in Constitution on blacklisting, 113.
- proposition for insertion in Constitution on public taxes, 113.
- proposition for insertion in Constitution on public moneys, 113.
- proposition for insertion in Constitution on taxation, 156.
- proposition for insertion in Constitution on taxing mines, 157.
- resolution that auditor of Territory, recorder of municipalities, county clerks, and school boards, be requested to furnish statements of indebtedness, 173.

Remarks—

- in favor of resolution, 9.
- on question of adjournment, 12.
- on duties of committee on credentials, 13.
- on members taking oath, 13.
- on motion to refer back report on credentials, 21, 22, 23, 24, 25, 29, 30, 33, 35.
- on adjournment, 36, 37.
- on vote, 53.
- on report of committee on site and furniture, 68, 69, 70.
- on selecting seats, 72, 73.
- on motion to adjourn, 78, 168.
- on motion to change chief clerk to secretary, 79, 80.
- on motion to read rules, 81.
- on motion to change time of meeting, 89.
- on official stenographer, 91, 96.
- on motion to adopt rules, 90.
- on minutes, 105, 106.
- on reports of committees, 110.
- on the introduction of propositions

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Remarks—

- for insertion in Constitution, 103, 114, 115.
- on point of order, 103, 104, 111.
- on electing committee clerks, 120, 121, 122, 124, 125, 159, 160.
- on adopting rules, 131, 132, 137, 138, 139, 140.
- on excuse of Kimball on account of sickness, 141.
- on disposition of memorial on suffrage, 142, 143.
- on motion to refer petition on prohibition, 144.
- on report of committee on expenses, 147, 148, 150, 151, 153, 154.
- on petition on prohibition from Weber County, 157.
- on typewriters, 158.
- on proposition to protect live stock, 164.
- on proposition on labor, introduced by Cannon, 164.
- on introduction of article on boundaries, 166.
- on motion to adjourn, 167, 168, 169.
- on resolution on senators and representatives, 177, 182, 184.
- on report of committee on boundaries, 191.
- on report of committee on preamble and bill of rights, 200.
- on motion to read report of committee on preamble, 201.
- on proposition for insertion in Constitution, 201.
- on motion to go into committee of whole, 203.
- on motion to lay article on boundary on table, 205.
- on order of business, 209, 210, 211.
- on article on boundary, 212.
- on Coray's motion to strike out from minutes, 215.
- on motion to limit time to present propositions, 219.
- on motion on Coray, 220, 221.
- on resolution on stenographer, 223.

EVANS, DAVID (Continued.)

Remarks—

- on amendment to rule 21, and motion to adopt, 224.
- on motion to amend motion to go into committee of the whole, 228.
- on motion to amend section 4, bill of rights, 237, 241, 242, 245, 248, 249, 250, 252, 364.
- on a point of order on Varian, 241, 249.
- on motion to amend section 5, bill of rights, 254.
- on motion to amend section 10, bill of rights, 258, 283, 285, 288, 291.
- on motion to increase committee on schedule, 268, 271.
- on motion to change hour of meeting, 302.
- on motion to amend section 12, bill of rights, 306, 308, 309, 310.
- on motion to amend section 11, bill of rights, 305.
- on motion to amend section 13, bill of rights, 313, 314, 315.
- on motion to amend section 24, bill of rights, 351, 353, 354, 355, 357, 358.
- on motion to amend section 25, bill of rights, 359, 365, 366, 367.
- on motion to amend section 26, bill of rights, 360, 361.
- on motion to transpose sections of bill of rights, 361.
- on motion to amend section 2, education and school lands, 377, 378, 379, 383, 385, 386.
- on motion to amend section 5, counties, cities and towns, 401, 402, 403, 404.
- on motion to print minority report on suffrage, 409, 410, 412.
- on motion to amend rules, 419.
- on motion to suspend rules for Roberts's speech, 420, 421.
- on motion on section 1, suffrage, 458, 500, 505, 542, 543, 567, 595.
- on motion to have evening session, 491, 492.
- on motion to amend section 10, bill of rights, 492, 493, 494, 495, 622.
- on suffrage, 598, 600, 765, 801.

EVANS, DAVID (Continued.)

Remarks—

- on motion to clear the house, 599.
- on motion to strike out section 10, elections and suffrage, 607, 612.
- on point of order on Hart's motion to amend, 615.
- on motion to strike out section 12, elections and suffrage, 615.
- in defense of Driver, 621, 622.
- on motion to amend section 22, bill of rights, 624, 625, 626, 627, 628, 629, 637, 638, 640, 649, 650, 651.
- on motion to adopt preamble, 652.
- on motion to amend section 3, executive, 661.
- on motion to amend section 6, executive, 664, 1151.
- on motion to amend section 6, municipal corporations, 669, 672.
- on motion to amend section 3, amendments, 674, 675, 677, 678.
- on motion to postpone action on elections and suffrage, 680, 681, 686, 691, 697.
- on Varian's appeal from chair on point of order on Eichnor's amendment to section 1, elections and suffrage, 707, 708.
- on Wells's motion to amend section 1, elections and suffrage, 711.
- on motion to recommit elections and suffrage, 720, 725, 734, 740, 741, 742, 743, 744, 746, 747, 748, 755, 758, 764.
- on motion to pass section 1, elections and suffrage, 766.
- on motion to amend section 2, elections and suffrage, 770, 771, 772.
- on motion to amend section 3, elections and suffrage, 774, 775, 776, 777.
- on motion to amend section 14, elections and suffrage, 791, 792, 796, 797, 798, 799, 800, 1486, 1487, 1490, 1491, 1492, 1494, 1495.
- on motion to suspend rules on elections and suffrage, 801, 902.
- on voting on elections and suffrage, 803.
- on ordinance, 810.
- on motion to amend section 1, school lands, 812, 813, 814.

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Remarks—

- on motion to amend section 1, militia, 815, 816, 818.
- on motion to strike out section 1, apportionment, 821.
- on motion to amend section 4, apportionment, 828.
- on unsigned petition presented by Low, 852.
- on motion to amend section 2, apportionment, 860, 861, 862, 863.
- on motion to strike out section 11, legislative, 867.
- on motion to amend section 13, legislative, 869.
- on motion to amend section 8, legislative, 935.
- on motion to amend section 9, legislative, 936.
- on motion to amend section 33, legislative, 937, 938.
- on motion to strike out section 35, legislative, 938, 939, 940, 941, 942, 944, 949, 950.
- on motion to adopt section 36, legislative, 952, 953, 954, 956.
- on appeal from the chair, 958, 961, 963, 964, 965, 967, 968, 969, 970.
- on voting to reconsider section 36, legislative, 1003.
- on voting on legislative article, 1005.
- on motion to amend section 1, labor and arbitration, 1035, 1036, 1037, 1044, 1045, 1050, 1052.
- on ruling of chair on Stover's motion, 1055.
- on motion to strike out section 5, labor and arbitration, 1056, 1057, 1058, 1060.
- on motion to amend section 7, labor and arbitration, 1061, 1062, 1063, 1066.
- on motion to strike out section 9, labor and arbitration, 1067.
- on motion to amend section 4, taxation and revenue, 1074, 1075, 1076, 1077, 1078, 1080, 1082, 1083.
- on motion to strike out section 5, taxation and revenue, 1094, 1095,

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Remarks—

1096, 1097, 1098, 1099, 1100, 1101, 1104, 1105, 1106, 1107, 1108.
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 on motion to amend section 11, taxation and revenue, 1114.
 on motion to amend section 3, taxation and revenue, 1115.
 on motion to amend section 1, public debt, 1116, 1119, 1121, 1123, 1186.
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 on motion to amend section 5, public debt, 1135, 1136, 1137, 1139, 1140, 1141.
 on motion to reconsider section 1, suffrage, 1146, 1147, 1149.
 on substitute to labor article, 1165.
 on new section to taxation and revenue, 1178.
 on motion to amend section 5, taxation and revenue, 1179.
 on motion to reject minority report on prohibition, 1183.
 on section 3, public debt, 1186.
 on motion to amend section 4, public debt, 1190, 1191.
 on motion to amend section 5, public debt, 1194, 1195, 1196.
 on motion to amend section 10, education, 1295, 1296.
 on motion to amend section 2, judiciary, 1314, 1500.
 on motion to amend section 3, judiciary, 1314.
 on motion to amend section 5, judiciary, 1315, 1316, 1317, 1318, 1319.
 on motion to amend section 4, judiciary, 1320.
 on motion to amend section 8, judiciary, 1323, 1504.
 on motion to amend section 12, judiciary, 1324.
 on motion to strike out section 2, education, 1332, 1334.
 on motion to amend section 4, education, 1367.

EVANS, DAVID (Continued.)

Remarks—

on motion to amend section 3, mines and mining, 1427, 1428, 1429.
 on motion to adopt majority report on prohibition, 1434, 1439, 1440, 1446, 1455, 1456.
 on motion to amend section 1, corporations, 1465, 1466.
 on motion to strike out section 9, corporations, 1468.
 on motion to amend section 11, corporations, 1175, 1472, 1473, 1554.
 on section 7, judiciary, 1503, 1504.
 on motion to amend section 9, judiciary, 1507, 1508, 1510, 1511, 1513.
 on motion to amend section 20, judiciary, 1513.
 on motion to amend section 25, judiciary, 1519, 1520.
 on motion to amend section 9, judiciary, 1521, 1522.
 on voting on judiciary, 1524.
 on mines and mining, 1524, 1525.
 on section 16, corporations, 1562.
 on section 21, corporations, 1564, 1567, 1568.
 on section 23, corporations, 1570, 1571, 1572, 1573, 1576, 1577, 1668, 1669.
 on section 25, corporations, 1579, 1670, 1671, 1672, 1673, 1675, 1676, 1677.
 on section 26, corporations, 1583, 1584.
 on resolution to record absent members, 1588.
 on section 28, corporations, 1593.
 on section 30, corporations, 1597.
 on section 32, corporations, 1599.
 on section 38, corporations, 1603.
 on section 3, public buildings, 1615, 1616, 1619, 1620, 1622, 1708.
 on schedule, 1649, 1651, 1652, 1738, 1739, 1740, 1743, 1745, 1748, 1757, 1759, 1761, 1762, 1765.
 on invitation to reception, 1654.
 on section 2, corporations, 1655, 1657.
 on section 9, corporations, 1659, 1660.
 on section 11, corporations, 1662.
 on section 14, corporations, 1665, 1666.
 on article on corporations, 1680, 1681.
 on public lands, 1694, 1696, 1698.

EVANS, DAVID (Continued.)

Remarks—

- on section 6, public buildings, 1714, 1715.
- on bill of rights, 1718, 1720.
- on ordinance, 1721.
- on voting on schedule, 1767.
- on miscellaneous, 1776, 1777, 1779, 1780, 1781, 1782, 1784.
- on compensation of stenographer, 1826.
- on invitation to Saltair, 1826.
- on engrossing, 1826.
- on revision, 1828, 1829, 1830, 1832, 1833.

Seconds—

- motion to adopt part of report, 145.
- Kiesel's motion on schedule for committee meeting, 117.
- Kiesel's motion to elect by acclamation, 121.
- Withdraws appeal from decision of chair, 244.
- Withdraws amendment to section 3, taxation and revenue, 1115.

EVANS, A. J., Member from Lehi, Utah County.

Appointed—

- on committee on education and school lands, 66.
- on committee on revenue, taxation and public debt, 67.
- Asks unanimous consent to reconsider report of accounts, 1084.
- Called to chair of committee of the whole, 1084.
- Excused from voting on article on boundary, 212.
- Excused on account of mother's illness, 615.

Moves—

- to amend section 14, elections and suffrage, 793.
- to go into committee of the whole, 812.
- to amend section 20, executive, 1018, 1024.

EVANS, A. J. (Continued.)

Moves—

- to reconsider report of accounts, 1084, 1202.
- to amend substitute to section 13, legislative, 877.
- to refer to committee, 113.
- to elect one committee clerk, 124.
- to adjourn, 125, 850, 1522.
- to reject portions of report, 147, 152.
- to take section 4, bill of rights, from table, 252.
- to arise and report, 344, 888, 1312.
- to amend section 2, education and school lands, 383.
- on a point of order on amendment to section 14, elections and suffrage, 788.
- to take suffrage from table, 1147.
- that debate on reconsideration of suffrage cease, 1147.
- to strike out section 10, labor, 1170.
- to suspend rules and adopt report, 1177.
- to amend section 5, public debt, 1198.
- to postpone consideration of section 2, education, 1228.
- to amend section 5, education, 1238.
- to take recess to set time, 1375.
- to amend section 20, judiciary, 1386, 1513, 1518.
- to postpone invitation of Los Angeles Railway, 1526.
- to strike out section 22, corporations, 1569.
- to suspend rules and pass resolution, 1587.
- to amend section 28, corporations, 1593.
- to amend section 2, public lands, 1606.
- to amend section 3, public lands, 1607.
- a new section to public lands, 1607.
- to reconsider public lands, 1704.
- to add section 7 to public buildings, 1716.
- to amend section 2, miscellaneous, 1772.
- the previous question, 1801.
- a substitute on printing proceedings, 1841.

EVANS, A. J. (Continued.)

Presents—

petition for separate submission of
suffrage, 1032.

Remarks—

on election of committee clerks, 124,
159, 160.

on report of committee on expenses,
147, 149.

on motion to adjourn, 169, 172.

on the reconsideration of vote on cor-
rection of minutes, 188, 189.

on motion for additional clerk, 194,
195.

on order of business, 208.

on motion on Coray, 221.

on motion to amend section 4, bill of
rights, 252, 364.

on motion to amend section 23, bill of
rights, 334, 338.

on motion to make elections and suf-
frage special order, 411.

on suffrage, 555.

on motion to amend section 14, elec-
tions and suffrage, 790, 792, 1480,
1485, 1486, 1489, 1493, 1495.

on motion to suspend rules on elec-
tions and suffrage, 802.

on voting on elections and suffrage,
805.

on motion to strike out section 1, ap-
portionment, 822, 823.

on motion to amend section 4, appor-
tionment, 827, 831, 852.

on motion to amend section 2, appor-
tionment, 860.

on article on militia, 865.

on motion to amend section 13, legis-
lative, 877, 878.

on motion to add new section to leg-
islative, 887.

on Roberts's amendment to legisla-
tive, 916, 920, 921, 923.

on motion to amend section 12, execu-
tive, 932.

on appeal from chair on vote on sec-
tion 36, legislative, 971.

on voting on legislative article, 1005.

EVANS, A. J. (Continued.)

Remarks—

on motion to amend section 20, exec-
utive, 1020, 1023, 1024, 1025, 1027, 1030,
1155, 1156, 1159, 1160.

on motion to amend labor and arbi-
tration, 1068.

on motion to reconsider accounts,
1084, 1235, 1236.

on moving previous question on ac-
counts, 1144.

on motion to reconsider section 1,
suffrage, 1145.

on article on labor, 1167, 1169.

on water rights, 1202, 1204, 1205.

on motion to amend section 2, educa-
tion, 1224, 1228.

on motion to amend section 3, educa-
tion, 1228, 1231.

on motion to amend section 5, educa-
tion, 1249, 1342, 1373.

on motion to amend section 10, edu-
cation, 1300, 1312.

on motion to amend section 5, judi-
ciary, 1315.

on motion to amend section 20, judi-
ciary, 1376, 1387, 1391, 1514, 1515, 1517.

on motion to amend section 1, judi-
ciary, 1403, 1411.

on motion to amend section 3, mines
and mining, 1420, 1421, 1422.

on motion to adopt majority report
on prohibition, 1452.

on motion to strike out section 9, cor-
porations, 1468.

on voting on judiciary, 1524.

on mines and mining, 1524, 1527, 1528,
1529, 1530.

on section 21, corporations, 1565.

on section 23, corporations, 1574.

on point of order on section 26, cor-
porations, 1584, 1592.

on section 28, corporations, 1592.

on section 1, public lands, 1605.

on salaries, 1611.

on section 25, corporations, 1677.

on point of order on motion to ad-
journ, 1682.

on public lands, 1686, 1699, 1700.

on public buildings, 1725.

EVANS, A. J. (Continued.)

Remarks—

- on miscellaneous, 1772, 1786, 1798, 1800, 1802.
- on point of order and appeals from chair, 1785.
- on revision, 1807, 1808, 1810, 1811, 1812, 1819.
- on printing proceedings, 1839, 1842, 1843.

Seconds Kimball's motion to amend, 364.

Withdraws motion to take section 4, bill of rights, from table, 252.

Withdraws motion to amend section 13, legislative, 879.

FARR, LORIN, Member from Ogden, Weber County.

Appointed—

- on legislative committee, 65.
- on committee on water rights and irrigation, 66.
- on committee on municipal corporations, 66.

Excused, 136.

Excused from voting on article on boundary, 212.

Moves—

- to amend section 5, counties, cities, and towns, 405.
- to amend section 4, bill of rights, 248.
- to amend section 15, bill of rights, 322.
- to strike out section 25, bill of rights, 359.
- to amend section 3, amendments, 678.
- to amend substitute to section 14, elections and suffrage, 793.
- to amend section 20, executive, 1020.
- to strike section 5, public debt, 1135, 1196.
- to amend section 20, judiciary, 1326.
- to amend section 1, judiciary, 1412.
- to amend section 21, corporations, 1568.

Offered prayer, 993, 1846.

FARR, LORIN (Continued.)

Presents proposition for insertion in Constitution on metric system, 226.

Remarks—

- on referring back report on credentials, 35, 36.
- on nomination of Pratt, 50.
- on motion to adjourn, 63.
- on motion to adopt report of committee on site, 70.
- on the selection of seats, 73.
- on correcting minutes, 107.
- on motion to adjourn, 163.
- on bill of rights, 229.
- on motion to amend section 4, bill of rights, 231.
- on motion to amend section 4, bill of rights, 248.
- on motion to amend section 23, bill of rights, 327.
- on motion to amend section 24, bill of rights, 357, 358.
- on motion to amend section 5, counties, cities and towns, 405.
- on motion to strike out section 10, elections and suffrage, 613.
- on motion to amend section 22, bill of rights, 633, 647, 648.
- on voting on bill of rights, 652.
- on motion to postpone action on elections and suffrage, 691, 700.
- on motion to amend section 14, elections and suffrage, 787, 793, 785, 1496.
- on motion to amend section 1, militia, 816, 818.
- on motion to strike out section 1, apportionment, 822.
- on motion to amend section 4, apportionment, 854.
- on motion to strike out section 11, legislative, 868.
- on motion to amend section 13, legislative, 869, 871, 875.
- on motion to amend section 20, legislative, 883.
- on motion to reconsider section 36, legislative, 993.
- on motion to amend section 20, executive, 1019, 1021, 1030, 1154, 1157, 1158, 1161.

FARR, LORIN (Continued.)

Remarks—

- on motion to amend section 1, labor and arbitration, 1037, 1045.
- on motion to strike out section 7, labor and arbitration, 1065.
- on motion to amend section 12, taxation and revenue, 1111, 1113.
- on motion to amend section 5, public debt, 1135, 1140.
- on motion to amend section 8, executive, 1163.
- on water rights, 1206, 1212, 1233.
- on voting on water rights, 1234.
- on motion to amend section 5, education, 1268, 1270, 1308, 1366.
- on motion to amend section 5, judiciary, 1316, 1503.
- on motion to amend section 8, judiciary, 1323.
- on motion to amend section 12, judiciary, 1324.
- on motion to amend section 20, judiciary, 1325, 1326, 1327.
- on motion to amend section 2, education, 1332.
- on voting on substitute to section 4, education, 1372.
- on motion to amend section 20, judiciary, 1375, 1385, 1388, 1516.
- on motion to adopt majority report on prohibition, 1448.
- on mines and mining, 1545.
- on section 23, corporations, 1570, 1573.
- on new section to public lands, 1608, 1610.
- on salaries, 1612.
- on section 3, public buildings, 1616.
- on article on corporations, 1681.
- on invitation to reception, 1684.
- on section 6, public buildings, 1713, 1731.
- on revision, 1829, 1831.
- on printing proceedings, 1840, 1841, 1842.

Seconds Raleigh's motion to amend, 874.

FARR, NEWTON.

nominated for enrolling clerk by F. J. Kiesel, 50.

FRANCIS, SAMUEL, Member from Morgan, Morgan County.

Appointed—

- on committee to name standing committees, 38.
- on executive committee, 66.
- on committee on apportionment and boundary, 66.
- on committee on schedule, future amendments and miscellaneous, 67.

Excused, 312.

Moves—

- to instruct committee on accounts, 1183.
- to amend section 20, executive, 1021.
- to refer proposition on liquor habit, 301.
- to amend section 26, legislative, 884.

Presents—

- proposition for insertion in Constitution on division of counties, 166.
- proposition for insertion in Constitution forbidding donations of public lands, 166.
- proposition for insertion in Constitution on municipal corporations, 166.
- proposition for insertion in Constitution on amendments to law, 218.
- petition for separate submission of suffrage, 809.
- petition for suffrage to go in Constitution, 1143.

Remarks—

- on motion to adjourn, 169.
- on suffrage, 547, 557.
- on motion to recommit elections and suffrage, 724, 734.
- on motion to amend section 4, apportionment, 841, 842.
- on motion to amend section 26, legislative, 884.

FRANCIS, SAMUEL (Continued.)

Remarks—

- on motion to amend section 20, executive, 1022, 1160.
- on motion to amend section 15, judiciary, 1394.

GIBBS, W. H., Member from Portage,
Box Elder County.

Appointed—

- on committee on rules, 61, 65.
- on committee on apportionment and boundaries, 66.

Moves—

- to strike out section 5, miscellaneous, 1800, 1801.
- a point of order on Howard, 751.
- to amend Ricks's motion to adjourn, 172.
- to amend section 2, education, 1372.
- to amend section 1, corporations, 1465.

Presents—

- proposition for insertion in Constitution on probate judges, 113.
- petition for separate submission of suffrage, 976, 1032, 1287.

Remarks—

- on voting on section 20, executive, 1158.
- on resolution to get bids on stationery, 118.
- on motion to adjourn, 172.
- on resolution on senators and representatives, 181.
- on motion to amend section 24, bill of rights, 357.
- on motion to amend section 2, education and school lands, 383.
- on suffrage, 575.
- on motion to amend section 3, amendments, 675.
- on voting on section 1, elections and suffrage, 768.
- on motion to strike out section 1, apportionment, 822.
- on motion to amend section 5, education, 1248.

GIBBS, W. H. (Continued.)

Remarks—

- on voting on article on education, 1374.
- on motion to amend section 1, judiciary, 1404, 1409.
- on motion to amend section 3, mines and mining, 1421, 1544.
- on section 3, public buildings, 1622.
- on revision, 1792.
- on voting on miscellaneous, 1801.

Seconds Eldredge's motion to lay on table, 189.

GOODWIN, C. C., Member from Fifth
Precinct, Salt Lake City.

Acting as chairman pro tem., 38.

Appointed—

- on committee on legislative, 66.
- on committee on compilation and arrangement, 67.
- chairman of committee on judiciary, 66.
- chairman of committee of the whole, 535.
- on committee to prepare address, 1802.

Excused, 213, 656.

Moves—

- to strike out section 15, bill of rights, 322.
- a substitute for section 15, bill of rights, 319.
- to defer action on report of committee on sites, 59.
- to adopt rules for one day, 89.
- to refer, 112.
- to elect committee clerks, 120.
- to reconsider in relation to minutes, 187.
- a vote of confidence in Davis County, 519.
- to amend section 14, elections and suffrage, 616.
- to amend section 8, elections and suffrage, 783.
- to lay amendment to substitute on table, 793.

GOODWIN. C. C. (Continued.)

Moves—

- for Mackintosh to have opening and closing speech on his amendment, 1056.
- to strike out section 6, public debt, 1141.
- to amend section 5, labor, 1174.
- to amend section 5, education, 1283.
- for committee to rise, 1330.
- for a new section on metric system, education, 1372.
- a substitute to section 20, judiciary, 1379.
- to adjourn, 1522.
- to amend section 4, schedule, 1631.
- to amend section 9, schedule, 1633.
- to reconsider vote on reading articles, 1718.
- to transpose section 20, bill of rights, 1720.
- to amend on revision, 1805, 1819.
- a vote of thanks for use of hall, 1848.

Presents—

- proposition for insertion in Constitution on irrigation, 217.
- proposition for insertion in Constitution on metric system, 299.
- petition for separate submission of suffrage. 769, 809, 933, 934.

Remarks—

- on motion to refer back report on credentials, 31.
- on voting for enrolling clerk, 51.
- on the absence of Evans, 55.
- on report of committee on site, 56.
- relating to chaplain, 56.
- on report of committee on site, 59, 60.
- on resolution to set hour of meeting, 63.
- on appointment as chairman of committee on judiciary, 67, 68.
- on selection of seats, 72.
- on motion to adopt rules, 90.
- on motion to form schedule of meetings, 117.
- on electing committee clerks, 120, 122, 160, 172.
- on adopting rules, 134, 135.

GOODWIN, C. C. (Continued.)

Remarks—

- on seconding nomination of Miss Madison, 159.
- on motion to refer correction of minutes, 187, 188.
- on motion for additional clerk, 196.
- on motion to amend section 4, bill of rights, 247.
- on motion to amend section 5, bill of rights, 255.
- on motion to amend section 10, bill of rights, 261, 282, 283, 293.
- on report to increase committee on schedule, future amendments and miscellaneous, 271.
- on proposition to tax professional men, 300.
- on motion to change hour of meeting, 301.
- on motion to fine absent members, 304.
- on motion to amend section 12, bill of rights, 308.
- on substitute to section 15, bill of rights, 320, 321, 322.
- on motion to amend section 23, bill of rights, 329.
- on motion to amend section 2, education and school lands, 370, 375, 382, 387.
- on motion to take up elections and rights of suffrage, 413.
- on section 1, elections and rights of suffrage, 486, 487, 489.
- on motion to adjourn, 578.
- on motion to strike out section 10, elections and suffrage, 604, 613.
- on motion to amend section 14, elections and suffrage, 616, 617.
- on motion to amend section 1, executive, 656.
- on motion to amend section 6, municipal corporations, 670, 671.
- on motion to postpone action on elections and suffrage, 696, 697.
- on motion to recommit elections and suffrage, 739, 740, 741, 757.
- on voting on section 1, elections and suffrage, 768.

GOODWIN, C. C. (Continued.)

Remarks—

- on motion to amend section 8, elections and suffrage, 782, 783.
- on motion to amend section 14, elections and suffrage, 784, 794.
- on assuming the chair to act as temporary chairman, 58.
- on election of president, 39, 40.
- on introducing the permanent president, 40.
- on motion to amend section 14, elections and suffrage, 794, 799, 880, 1481, 1482, 1483, 1484, 1489, 1492, 1496.
- on motion to amend ordinance, 806.
- on presenting the president with portraits, 810.
- on motion to amend section 1, militia, 815, 816.
- on motion to amend section 4, apportionment, 831, 839, 863.
- on motion to amend section 13, legislative, 869, 873.
- on motion to amend section 26, legislative, 884.
- on motion to amend section 4, minority report, legislative, 893.
- on Roberts's motion to amend legislative, 900, 914, 923, 926.
- on motion to strike out section 35, legislative, 940.
- on appeal from chair on vote on section 36, legislative, 969, 970.
- on report of committee on judiciary, 977.
- on motion to reconsider section 36, legislative, 991, 993, 1001, 1002.
- on motion to amend section 1, labor and arbitration, 1042, 1043.
- on motion to amend section 5, labor and arbitration, 1058.
- on motion to amend section 7, labor and arbitration, 1061.
- on motion to strike out section 5, taxation and revenue, 1091, 1093, 1094, 1095, 1096, 1098.
- on motion to amend section 3, taxation and revenue, 1115.
- on motion to amend section 1, public debt, 1118.

GOODWIN, C. C. (Continued.)

Remarks—

- on motion to amend section 3, public debt, 1131, 1132, 1134.
- on motion to amend section 20, executive, 1154.
- on section 5, labor, 1170, 1174, 1175.
- on motion to amend section 4, public debt, 1189.
- on motion to amend section 5, education, 1238, 1247, 1252, 1282, 1283, 1284, 1289.
- on motion to reconsider section 4, elections, 1288.
- on section 6, education, 1289.
- on motion to amend section 7, education, 1291.
- on motion to amend section 10, education, 1294, 1301.
- on motion to amend section 2, education, 1303, 1304, 1335.
- on metric system, 1312.
- on motion to amend section 2, judiciary, 1313, 1497, 1499, 1500, 1501.
- on section 5, judiciary, 1314, 1315, 1317, 1503.
- on motion to amend section 7, judiciary, 1320.
- on motion to amend section 8, judiciary, 1322, 1323, 1504, 1506.
- on motion to amend section 15, judiciary, 1325.
- on motion to amend section 20, judiciary, 1326, 1377, 1383, 1384, 1386, 1390, 1391, 1514, 1515.
- on motion to amend section 3, education, 1336.
- on motion to amend section 4, education, 1340, 1357.
- on motion to amend section 1, judiciary, 1397, 1400, 1404, 1405, 1522.
- on motion to amend section 4, judiciary, 1502.
- on motion to amend section 9, judiciary, 1506.
- on section 18, judiciary, 1513.
- on motion to amend section 27, judiciary, 1521.
- on schedule, 1630, 1632, 1634, 1636, 1645, 1740, 1748, 1750, 1754, 1761, 1764.

GOODWIN, C. C. (Continued.)

Remarks—

- on public buildings, 1728.
- on miscellaneous, 1776, 1782.
- on revision, 1788, 1790, 1791, 1792, 1793, 1795, 1806, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1818, 1823, 1824.
- on printing proceedings, 1843, 1845.

Reports as chairman of committee on judiciary, 976.

Requests Squires and Roberts to escort permanent president to the chair, 40.

Seconds Pierce's motion to adjourn, 62.

Seconds Kimball's motion on electing committee clerk, 160.

Withdraws amendment to section 5, labor, 1175.

GREEN, J. F., Member from Draper, Salt Lake County.

Appointed—

- on committee on water rights and irrigation, 66.
- on committee on schedule, future amendments and miscellaneous, 67.

Presents—

- proposition for insertion in Constitution on irrigation, 217.
- petition for separate submission of suffrage, 1143.

Remarks—

- on voting on section 1, elections and suffrage, 768.

GILLILAN, REV. J. D., of the Methodist Episcopal Church.
offered prayer, 197, 215.

HAMMOND, F. A., Member from San Juan County.

Appointed—

- on committee to name standing committees, 38.
- on committee on elections and suffrage, 66.
- on committee on apportionment and boundaries, 66.

HAMMOND, F. A. (Continued.)

Moves—

- to adopt report of committee on apportionment, 191.
- to amend section 9, legislative, 936.
- to amend on revision, 1803.

Opened by prayer, 59.

Presents—

- proposition for insertion in Constitution on appropriations, 218.

Remarks—

- on proposition on live stock, 164.
- on suffrage, 551, 570.
- on motion to strike out section 10, elections and suffrage, 606, 611, 612.
- on motion to amend section 22, bill of rights, 638.
- on motion to amend section 6, executive, 664.
- on motion to recommit elections and suffrage, 731.
- on motion to amend section 1, militia, 817.
- on motion to amend section 4, apportionment, 828, 829.
- on motion to amend section 13, legislative, 875, 879.
- on section 9, legislative, 935, 936.
- on motion to amend section 33, legislative, 938.
- on motion to amend section 12, executive, 1007.
- on motion to amend section 20, executive, 1023.
- on motion to strike out section 1, labor and arbitration, 1045.
- on motion to strike out section 9, labor and arbitration, 1067.
- on motion to amend section 4, taxation and revenue, 1083.
- on motion to strike out section 8, taxation and revenue, 1109.
- on motion to amend section 8, public debt, 1128.
- on reconsideration of suffrage, 1148.
- on voting on section 20, executive, 1158.
- on article on labor, 1166, 1171.

HAMMOND, F. A. (Continued.)

Remarks—

- on motion to amend section 4, public debt, 1191, 1192.
- on water rights, 1213.
- on motion to amend section 5, education, 1283, 1343, 1369.
- on motion to amend section 10, education, 1292, 1299.
- on motion to amend section 5, judiciary, 1318.
- on motion to amend section 20, judiciary, 1385, 1516.
- on motion to amend section 3, mines and mining, 1429.
- on motion to adopt majority report on prohibition, 1446, 1457.
- on motion to amend section 11, corporations, 1471.
- on voting on judiciary, 1524.
- on section 3, public buildings, 1621.
- on schedule, 1630, 1631, 1652, 1758.
- on section 14, corporations, 1665.
- on public lands, 1695.
- on section 6, public buildings, 1712.
- on voting on schedule, 1766.
- on miscellaneous, 1776.

Takes oath as a member, 13.

HART, CHARLES H., Member from Logan, Cache County.

Appointed—

- on committee on rules, 61, 65.
- on legislative committee, 65.
- on committee on corporations, 66.
- on committee on printing, 67.

Called to the chair in committee of the whole, 419, 429, 1470.

Excused, 190.

Moves—

- to adopt report of committee on credentials, 32.
- the previous question on the report on stenographer, 100.
- authorizing president to appoint committees, 74, 75.
- to adopt report of committee on printing, 91.

HART, CHARLES H. (Continued.)

Moves—

- to sit for photographs, 125.
- to refer motion on current expenses to committee, 273.
- to amend section 24, bill of rights, 346.
- to amend section 24, bill of rights, 358.
- for regular order, 492.
- to amend section 10, bill of rights, 492.
- to go into committee of the whole, 496.
- to amend section 10, elections and suffrage, 615.
- to reconsider section 5, elections and suffrage, 618.
- to amend section 26, bill of rights, 650.
- to amend section 6, executive, 663.
- to amend section 1, amendments, 674.
- to amend section 3, amendments, 677.
- to amend substitute for section 14, elections and suffrage, 793.
- to amend motion to suspend rules, 802.
- to suspend rules and go into the committee of the whole, 810.
- to strike out section 1, apportionment, 820.
- to amend section 3, apportionment, 824.
- to amend section 9, legislative, 935.
- to refer section 20, executive, 1018, 1023.
- to amend section 22, executive, 1031.
- to amend section 3, public debt, 1134.
- to amend section 5, public debt, 1141.
- to amend section 20, executive, 1159.
- to amend section 8, executive, 1160.
- to reconsider section 1, water rights, 1218.
- to amend water rights, 1233.
- to lay Allen's motion on the table, 1288.
- to amend section 10, education, 1300.
- to strike out section 8, corporations, 1468.
- to adjourn, 1526.

HART, CHARLES H. (Continued.)

Moves—

- to strike out sections 1 and 2 and title, mines and mining, 1546.
- to adopt majority report on prohibition, 1546.
- to strike out section 18, corporations, 1562.
- to refer resolution on final reading, 1587.
- a resolution to record absent members, 1587.
- to strike out section 32, corporations, 1597.
- to amend section 1, public lands, 1605.
- to accept invitation to reception, 1684, 1685.
- to amend section 3, public lands, 1689.
- to postpone consideration of public lands, 1703.
- to reconsider corporations, 1704.
- to amend section 12, bill of rights, 1719.
- to amend section 2, salaries, 1635.
- to amend legislative, 1787.
- to refer articles to committee on engrossment, 1793.
- to suspend rules and take up miscellaneous, 1797.
- to amend on revision, 1804, 1805.
- for secretary to file documents with secretary of the Territory, 1852.

Presents—

- proposition on distribution of powers for insertion in Constitution, 112.
- proposition for insertion in Constitution on militia, 165.
- memorial against combines and trusts, 199.
- petition for suffrage to go into the Constitution, 994, 1143.
- resolution on hour of meeting, 62.
- petition for separate submission of suffrage, 1032.

Remarks—

- on election of president, 40.
- on motion to refer back report on credentials, 32.

HART, CHARLES H. (Continued.)

Remarks—

- on resolution regulating the hour of meeting, 62.
- on point of order on adjournment, 62.
- on resolution relating to librarian, 64, 65.
- on printing minutes, 75.
- on motion to adopt report on stenographer, 91, 99.
- on reports of committees, 109.
- on election of committee clerks, 121, 124, 159.
- on adoption of rules, 138, 140.
- on motion to refer petition on prohibition, 144.
- on report of committee on expense, 151.
- on motion to amend and refer, 156.
- on motion to adjourn, 167, 169, 170.
- on motion to refer corrections of minutes, 174.
- on motion to read report of committee on preamble, 200.
- on proposition for insertion in Constitution, 201.
- on motion to go into committee of the whole, 204, 819, 820.
- on motion to lay article on boundary on table, 206.
- on order of business, 208, 210, 211.
- on motion to receive and file Thatcher's letter, 214.
- on report of committee on education, 216.
- on motion to limit time to present propositions, 219.
- on motion on Coray, 221.
- on point of order on motion to amend section 4, bill of rights, 235.
- on motion to amend section 4, bill of rights, 236, 237, 242, 251.
- on motion to go into committee of the whole, 272.
- on motion to amend section 10, bill of rights, 284.
- on motion to amend section 24, bill of rights, 345, 350, 354, 355, 357.
- on motion to amend section 2, education and school lands, 389, 392.

HART, CHARLES H. (Continued.)

Remarks—

- on motion to amend section 5, counties, cities, and towns, 401.
- on motion to amend section 10, bill of rights, 492.
- on suffrage, 568, 571.
- on motion to take a recess, 600.
- on motion to amend section 2, elections and rights of suffrage, 601.
- on motion to strike out section 10, elections and suffrage, 615.
- on motion to amend section 22, bill of rights, 630, 631, 635, 636.
- on motion to adopt bill of rights, 651, 652.
- on motion to amend section 6, executive, 663.
- on motion to amend section 3, amendments, 675.
- on question to observe Arbor day, 679.
- on motion to postpone elections and suffrage, 704.
- on motion to recommit elections and suffrage, 725, 726, 751, 764.
- on Thurman's motion to lay on the table, 766.
- on voting on section 1, elections and suffrage, 768, 769.
- on motion to amend section 14, elections and suffrage, 793, 794, 799, 1491, 1496.
- on motion to suspend rules on elections and suffrage, 802.
- on motion to amend ordinance, 806.
- on motion to amend section 1, militia, 819.
- on motion to strike out section 1, apportionment, 820, 821, 822.
- on motion to amend section 4, apportionment, 826, 827, 828, 829, 838, 854, 855, 858, 859.
- on apportionment, 862, 863.
- on motion to amend section 3, legislative, 866.
- on motion to amend section 4, legislative, 866.
- on motion to amend section 13, legislative, 870, 876.

HART, CHARLES H. (Continued.)

Remarks—

- sustaining decision of chair, 896.
- on appeal from decision of chair to adopt section 36, legislative, 958, 963.
- on motion to amend section 20, executive, 1019, 1020, 1025, 1026, 1027, 1029, 1159, 1160.
- on motion to amend section 1, labor and arbitration, 1035, 1036, 1037.
- on motion to amend section 3, labor and arbitration, 1054, 1055.
- on point of order for chair to rebuke, 1055.
- on motion to amend section 1, public debt, 1117, 1121, 1124, 1185.
- on motion to amend section 3, public debt, 1128, 1129, 1134.
- on motion to amend section 5, public debt, 1139.
- on motion to amend section 8, public debt, 1141, 1142.
- on motion to amend section 6, executive, 1151.
- on motion to amend section 8, executive, 1161.
- on article on labor, 1166, 1167, 1175, 1176.
- on motion to amend section 14, taxation and revenue, 1178.
- on motion to reject minority report on prohibition, 1183.
- on water rights, 1205, 1217, 1685.
- on motion to amend section 4, education, 1232.
- on motion to reconsider accounts, 1236.
- on motion to amend section 2, education, 1237.
- on motion to amend section 5, education, 1271, 1272, 1273, 1274, 1307, 1347, 1361.
- on section 6, education, 1289.
- on motion to amend section 10, education, 1292, 1301.
- on motion to amend section 2, education, 1302.
- on motion to amend section 5, judiciary, 1314.

HART, CHARLES H. (Continued.)

Remarks—

- on motion to go into committee of the whole, 1331.
- on motion to amend section 20, judiciary, 1381, 1388.
- on motion to amend section 15, judiciary, 1396.
- on mines and mining, 1413, 1422, 1426, 1428, 1429, 1526, 1527, 1528, 1529, 1530, 1543, 1544.
- on motion to strike out section 1, corporations, 1467.
- on point of order to strike out section 3, mines, 1525.
- on section 23, corporations, 1576, 1577.
- on section 26, corporations, 1592.
- on section 28, corporations, 1593.
- on section 1, public lands, 1606.
- on section 2, public lands, 1607.
- on section 4, public lands, 1691, 1696, 1697.
- on schedule, 1761, 1762, 1763.
- on miscellaneous, 1769, 1770, 1775, 1776, 1777, 1779, 1781, 1784, 1785, 1786, 1799, 1800, 1801.
- on revision, 1790, 1792, 1803, 1806, 1808, 1809, 1810, 1811, 1812, 1813, 1830, 1832, 1834, 1849.
- on compensation for stenographer 1825.
- on engrossing, 1827.
- on printing proceedings, 1838, 1840, 1841, 1842, 1843, 1844, 1845.
- on vote of thanks, 1849.

Seconds motion of Chidester on report on elections, 317.

Yields his time to Roberts, 895.

HAYNES, HARRY, Member from Murray, Salt Lake County.

Appointed—

- on committee on apportionment and boundaries, 66.
 - on committee on revenue, taxation and public debt, 67.
- Excused, 78.

HAYNES, HARRY (Continued.)

Moves—

- to pass the question of stenographer, 53.
- to amend on revision, 1802, 1803, 1814, 1818.

Presents—

- petition for separate submission of suffrage, 851, 934, 1143.

Remarks—

- on petitions on suffrage presented by Cannon, 976.
- on motion to amend section 8, judiciary, 1322.
- on voting on article on education, 1374.
- on revision, 1809.

HALLIDAY, J. D., Member from Santaquin, Utah County.

Appointed—

- on executive committee, 66.
- on committee on schedule, future amendments and miscellaneous, 67.

Excused on account of illness, 98.

Opened by prayer, 1331.

Presents—

- petition for separate submission of suffrage, 851.

Remarks—

- on motion to postpone action on elections and suffrage, 683, 684, 685.
- on motion to reconsider elections and suffrage, 722, 751.
- on motion to amend section 7, legislative, 867.
- on motion to adopt substitute for section 36, legislative, 954.
- on motion to amend section 3, public debt, 1131.
- on motion to amend section 4, education, 1342, 1361.
- on motion to strike out section 9, corporations, 1468.
- on section 23, corporations, 1668.
- on revision, 1807.

Reports as minority in favor of prohibition, 1183.

HALL, REV. A. KINNEY, of St. Mark's Cathedral.
offered prayer, 495.

HARTLEY, MISS FLORENCE.
nominated for committee clerk, 159.

HAWKES, REV. W. S., of the Congregational Church.
offered prayer, 711.

HEYBOURNE, R. W. Member from Cedar City, Iron County.

Appointed—

on committee to name standing committees, 38.
on committee on preamble, 65.
on committee on apportionment and boundary, 66.
chairman on committee on ordinances, 67.

Excused, 663.

Moves—

to amend motion to allow Roberts to close debate on suffrage, 517.
to rise and report, 571.
to amend section 10, elections and suffrage, 610.
for a recess, 729.
to accept invitation, Los Angeles Railway, 1526.
the previous question, 1754.

Offered prayer, 1627.

Presents—

petition for suffrage to go into the Constitution, 889, 1143.
petition for separate submission of suffrage, 851, 993, 1142.

Remarks—

on report of committee on federal relations and ordinance, 218.
on suffrage, 529.
on motion to strike out section 10, elections and suffrage, 610, 611, 613, 614.
on motion to amend section 22, bill of rights, 633.
on motion to amend section 2, executive, 659.

HEYBOURNE, R. W. (Continued.)

Remarks—

on motion to amend section 3, executive, 662.
on motion to recommit elections and suffrage, 716, 717.
on Eldredge's motion to go into committee of the whole, 770.
on motion to amend section 14, elections and suffrage, 790, 1487.
on ordinance, 811.
on motion to strike out section 1, apportionment, 823.
on motion to amend section 20, legislative, 882.
on Roberts's amendment to legislative article, 909, 910.
on motion to strike out section 1, labor and arbitration, 1039.
on motion to amend section 4, taxation and revenue, 1081.
on motion to amend section 12, taxation and revenue, 1111.
on motion to amend section 1, public debt, 1123.
on voting on article on labor, 1177.
on water rights, 1210.
on motion to amend section 5, judiciary, 1317.
on motion for night sessions, 1477, 1478.
on section 3, public buildings, 1615, 1708.
on section 6, public buildings, 1629, 1715.
on revision, 1788.

Reports as chairman of committee on ordinance, 316.

HERMAN, REV. FRANCIS, of the Scandinavian M. E. Church.
offered prayer, 535.

HILL, S. H., Member from Second Precinct, Salt Lake City.

Appointed—

on committee on judiciary, 66.
on public lands committee, 66.

HILL, S. H. (Continued.)

Appointed—

on committee on mines and mining,
67.

on committee on schedule, future
amendments and miscellaneous, 297.

Moves—

to refer report of committee on bound-
aries to committee of the whole,
191.

to rise and report, 312.

Nominates E. M. Ashton as committee
clerk, 120, 124.

Presents—

petition for separate submission of
suffrage, 850, 888, 1143.

Remarks—

on official stenographer, 100.

on motion to correct minutes, 106,
107.

on reports of committees, 109.

on compensation of officers, 110.

on rules, 128.

on suffrage, 545, 546, 547, 548, 549.

on motion to amend section 22, bill of
rights, 650.

on motion to amend section 20, exec-
utive, 1020, 1023.

on motion to amend section 5, educa-
tion, 1267, 1270, 1271, 1277.

on motion to amend section 5, judi-
ciary, 1315.

on motion to amend section 1, judi-
ciary, 1402, 1403.

on section 23, corporations, 1571.

on section 2, public lands, 1607.

on schedule, 1757.

on revision, 1802.

Seconds motion for additional clerk,
193.

Withdraws name of E. M. Ashton as
committee clerk, 121.

HOWARD, WILLIAM, Member from
Huntington, Emery County.

Appointed—

on committee to name standing com-
mittees, 38.

HOWARD, WILLIAM (Continued.)

Appointed—

on committee on elections and suf-
frage, 66.

on committee on mines and mining,
67.

Excused, 192.

Moves—

to have Robertson sworn, 59.

to amend rule 22 of standing rules,
89.

to amend section 3, amendments, 406.
the previous question on apporportion-
ment of representatives and sena-
tors, 187.

a substitute for section 23, bill of
rights, 331.

to amend section 24, bill of rights,
357.

to amend section 3, counties, cities,
and towns, 399.

to amend section 6, legislative, 975.

to amend section 8, legislative, 1004.

to amend section 23, executive, 1031.

to amend substitute to section 7,
labor and arbitration, 1066.

to amend section 3, mines and min-
ing, 1420.

to amend section 9, corporations,
1469.

to amend section 2, public lands, 1606.

to amend section 5, miscellaneous,
1782.

Offered prayer, 1585.

Presents—

petition for separate submission of
suffrage, 851, 934.

proposition for insertion in Constitu-
tion on irrigation, 156.

proposition for insertion in Constitu-
tion on registration, 156.

resolution relating to apportionment,
and moves its adoption, 175.

proposition for insertion in Constitu-
tion on revenue, 299.

proposition for insertion in Constitu-
tion on purity of water, 299.

resolution to fine absent members,
304.

HOWARD, WILLIAM (Continued.)

Presents—

petition for suffrage to go into the Constitution, 934, 1181.

Remarks—

on report on committee on site, 60.
 on rule 22, and requests that it be read, 89.
 on motion to take report from table, 146.
 on motion to adjourn, 168.
 on resolution to refer apportionment, 176.
 on resolution on senators and representatives, 183, 187.
 on motion to amend section 4, bill of rights, 234.
 on proposition on revenue, 299.
 on motion to amend section 23, bill of rights, 335.
 on motion to amend section 3, amendments, 407.
 on suffrage, 525.
 on motion to amend section 22, bill of rights, 634, 635, 647.
 on section 10, executive, 666.
 on motion to recommit elections and suffrage, 731, 748, 749, 750, 751.
 on motion to amend section 23, executive, 1031.
 on motion to strike out section 7, labor and arbitration, 1065.
 on motion to amend section 5, public debt, 1139.
 on section 8, executive, 1161.
 on voting on executive, 1163.
 on article on labor, 1170.
 on appeal from chair on water rights, 1205.
 on motion to reconsider section 14, elections, 1482, 1483, 1487.
 on motion to amend section 11, corporations, 1548.
 on motion for night sessions, 1477.

HUGHES, HENRY, Member from Mendon, Cache County.

Appointed—

on committee on federal relations, 65.

HUGHES, HENRY (Continued.)

Appointed—

on committee on water rights and irrigation, 66.

Offered prayer, 975.

Presents—

proposition for insertion in Constitution on irrigation, 226.

Remarks—

on section 4, public lands, 1691.

HUNT, REV. E. G. of the Methodist Episcopal Church.

offered prayer, 593.

HUNTER, REV. STANLEY M., of the Unitarian Society.

offered prayer, 393.

HYDE, J. A. Member from Nephi, Juab County.

Appointed—

on committee on sites, 36.
 on judiciary committee, 66.
 on committee on apportionment and boundary, 66.
 chairman on committee on manufactures and commerce, 67.

Excused, 311.

Moves—

to amend section 12, executive, 1152.
 to amend section 13, executive, 1153.

Presents—

petition on suffrage from women of Juab County, 216.
 petition favoring prohibition, 1181.

Remarks—

on motion to amend section 4, apportionment, 829.
 on article on labor, 1167.
 on metric system, 1312.

Report as chairman of committee on manufactures and commerce, 1413.

IVINS, A. W., Member from St. George,
Washington County.

Appointed—

- on committee on credentials, 13.
- on executive committee, 66.
- on committee on revenue, taxation
and public debt, 67.
- on committee on mines and mining,
67.

Called to the chair in committee of the
whole, 578, 865, 1237, 1547.

Excused to attend session of committee
on suffrage, 162.

Excused from voting on article on bound-
ary, 212.

Moves—

- to elect president by acclamation, 39.
- previous question for committee on
stenographer, 55.
- to accept majority report of commit-
tee on standing committees, 58.
- to instruct committee on site and fur-
niture, 62.
- to read rules and pass on them, 89.
- to elect committee clerks by roll call,
121, 123.
- to procure typewriters, 158.
- to lay on table article on boundary,
205.
- to amend section 4, bill of rights, 231.
- for unanimous consent for Roberts to
have all the time, 420.
- to pass article 1, elections and suf-
frage, to third reading, 457.
- a point of order, 543.
- that Roberts close debate on suffrage,
564.
- for a writ of prohibition to prevent
recount of vote, 958.
- to strike out section 3, labor and ar-
bitration, 1053, 1056.
- to amend section 20, judiciary, 1389.
- to adopt minority report on prohibi-
tion, 1546.
- to amend section 28, corporations,
1592.
- to strike out section 34, corporations,
1599.
- to amend miscellaneous, 1797.
- on revision, 1814.

IVINS, A. W. (Continued.)

Nominates—

Miss Clark as committee clerk, 123.

Presents—

petition for separate submission of
suffrage, 934, 1084.

Remarks—

- on Van Horne's motion for committee
of five, 12.
- on motion to refer back report on
credentials, 25, 26.
- on motion to elect president by accla-
mation, 40.
- on motion to suspend rules and elect,
49.
- on site and furniture, 62.
- on selection of seats, 73, 74.
- on motion to adopt rules, 89, 90.
- on election of committee clerks, 120,
121, 122, 123, 124, 160.
- on point of order on Button, 123.
- on motion to sit for photographs, 125.
- on printing rules and names and ad-
dresses, 141.
- on motion to refer petition on prohi-
bition, 144.
- on report of committee on accounts,
146, 148, 153.
- on rules on points of order, 156, 161.
- on point of order on Kiesel, 158.
- on committee clerks, 158, 160.
- on motion to reconsider vote, 188.
- on boundary, 204, 205, 206.
- on rule 20 and its application, 214, 215.
- on motion to amend article 1, bill of
rights, 229.
- on motion to amend section 4, bill of
rights, 235, 238, 242.
- on motion to postpone consideration
of section 10, bill of rights, 262.
- on petition on prohibition, 264.
- on report to increase committee on
schedule, future amendments and
miscellaneous, 269, 270.
- on motion to amend section 2, educa-
tion and school lands, 372, 373, 379,
380, 389.
- requests ruling of chair, 411.
- on motion to take up elections and
rights of suffrage, 411.

IVINS, A. W. (Continued.)

Remarks—

- on motion to pass section 1, elections and rights of suffrage, 420, 457, 458, 473, 539.
- on motion to amend section 22, bill of rights, 634, 649.
- on motion to amend section 1, executive, 654.
- on motion to amend section 3, executive, 661.
- on motion to amend section 6, executive, 665.
- on motion to amend section 6, municipal corporations, 673.
- on motion to postpone action on elections and suffrage, 693, 699.
- on motion to go into committee of the whole, 703.
- on appeal from chair on point of order on section 1, elections and suffrage, 707.
- on Maloney's amendment to section 1, elections and suffrage, 711.
- on motion to recommit elections and suffrage, 713, 720, 722, 749, 753, 754.
- on voting on section 1, elections and suffrage, 768.
- on motion to amend section 8, elections and suffrage, 781, 782.
- on motion to amend section 13, legislative, 878.
- on motion to strike out section 35, legislative, 946.
- on appeal from chair on adopting section 36, legislative, 960, 962, 970.
- on motion to reconsider section 36, legislative, 982.
- on voting on legislative article, 1005, 1006.
- on a point of order, 1006.
- on motion to amend section 12, executive, 1007, 1013, 1014.
- on motion to amend section 20, executive, 1022, 1023.
- on motion to amend section 1, labor and arbitration, 1052.
- on motion to amend section 3, labor and arbitration, 1054.

IVINS, A. W. (Continued.)

Remarks—

- on motion to strike out section 9, labor and arbitration, 1066, 1067.
- on Squires reading letter accompanying petition against suffrage, 1084.
- on motion to strike out section 5, taxation and revenue, 1084, 1086, 1090, 1091, 1093, 1107, 1108.
- on motion to amend section 12, taxation and revenue, 1112.
- on motion to amend section 1, public debt, 1119.
- on motion to amend section 3, public debt, 1127.
- on motion to amend section 5, public debt, 1140, 1141.
- on motion to reconsider suffrage, 1149, 1150.
- on motion to amend section 5, labor, 1174.
- on motion to amend section 5, taxation and revenue, 1180.
- on motion to reject minority report on prohibition, 1183.
- on motion to amend section 4, public debt, 1192.
- on water rights, 1204, 1218.
- on motion to amend section 2, education, 1221, 1222, 1226, 1303.
- on motion to amend section 5, education, 1231, 1273, 1274, 1343.
- on motion to amend section 10, education, 1295.
- on motion to amend section 20, judiciary, 1381, 1382, 1389, 1515, 1516.
- on motion to amend section 1, judiciary, 1408, 1409.
- on motion to strike out section 3, mines and mining, 1417, 1418, 1419.
- on motion to adopt majority report on prohibition, 1431, 1434, 1546.
- on mines and mining, 1525, 1526, 1538, 1539, 1542.
- on motion to limit debate, 1588.
- on section 26, corporations, 1591.
- on section 28, corporations, 1593.
- on public lands, 1609, 1687, 1693, 1694.
- on section 3, public buildings, 1616, 1626.

IVINS, A. W. (Continued.)

Remarks—

- on section 6, public buildings, 1629.
- on schedule, 1637, 1753, 1754, 1764.
- on section 25, corporations, 1670, 1675, 1676.
- on corporations, 1681.
- on appeal from the chair, 1728.
- on miscellaneous, 1772, 1798.
- on revision, 1807, 1808.
- on a point of order, 1794.
- on printing proceedings, 1841.

ILIFF, REV. T. C., of the Methodist Episcopal Church.
offered prayer, 13.

JAMES, WILLIAM F., Member from Fifth Precinct, Salt Lake City.

Appointed—

- on committee on stenographer, 55.
- chairman of committee on corporations, 66.
- on committee on mines and mining, 67.

Amends motion for recess, 600.

Amends motion on drawers, 116.

Called to act as temporary chairman, 734, 1503.

Called to chair in committee of the whole, 363, 1032.

Moves—

- for recess, 12.
- to have members sworn, 37.
- to suspend rules, 49.
- for report from committee on accounts, 75.
- to take up question of committee clerks, 104.
- to refer correction of minutes, 106, 107.
- to receive and file report of committee on expenses, 110.
- to amend relating to postage, 150.
- to adjourn to set time, 167.
- to stop debate on suffrage, 563.
- to adopt report of committee on accounts and expenses, 712.
- to strike out section 5, elections and suffrage, 778.

JAMES, WILLIAM F. (Continued.)

Moves—

- a substitute for section 1, apportionment, 824.
- to amend motion on section 20, executive, 1017.
- to amend section 13, corporations, 1556.
- to amend section 22, corporations, 1569.
- to strike out sections 24 and 25, corporations, 1578.
- a substitute for section 26, corporations, 1583.
- to strike out section 7, corporations, 1655.
- to amend section 13, corporations, 1663.
- to adopt new section to miscellaneous, 1800.
- to amend on revision, 1822.

Presents—

- petition for separate submission of suffrage, 769, 851, 852, 1143.

Remarks—

- on calling Convention to order, 9.
- on motion to refer back report on credentials, 23, 24, 26, 28, 29, 30.
- on adopting report of committee on credentials, 37.
- on election of stenographer, 54.
- on minority report of committee on standing committees, 57.
- report of committee on site, 60, 61, 62.
- on selection of seats, 74.
- on motion to adopt rules, 90.
- on hiring of an official stenographer, 92, 93, 95, 96.
- on committee clerks, 103, 160.
- on motion to correct minutes, 107.
- on motion to receive and file report of committee, 110.
- on motion for drawers for tables, 116.
- on resolution to get bids on stationery, 117, 118.
- on adopting rules, 139.
- on report of committee on expenses, 153.
- on motion to adjourn, 169.

JAMES, WILLIAM F. (Continued.)

Remarks—

- on motion to lay article on boundary on table, 205.
- on motion to limit time to present propositions, 219.
- on regular order of business, 221.
- on resolution on stenographer, 223.
- on point of order, 270, 722.
- on report to increase committee on schedule, future amendments and miscellaneous, 270.
- on motion to change time of meeting, 303.
- on motion to amend section 11, bill of rights, 305.
- on motion to set time to report elections and suffrage, 318.
- on motion to strike out section 21, bill of rights, 325.
- on motion to amend section 23, bill of rights, 333, 334, 337, 338.
- on motion to amend section 24, bill of rights, 335.
- on motion to amend section 25, bill of rights, 359.
- on motion to amend section 5, counties, cities and towns, 402, 404.
- on section 1, elections and rights of suffrage, 489, 518, 527, 535, 543, 548, 563, 564.
- on motion to strike out section 10, elections and suffrage, 609, 610.
- on motion to amend section 22, bill of rights, 626, 636.
- on motion to amend section 1, executive, 658.
- on motion to amend section 6, municipal corporations, 671.
- on motion to postpone action on elections and suffrage, 685, 691, 692, 693, 694.
- on report of committee on accounts and expense, 712.
- on motion to recommit elections and suffrage, 722, 725, 759, 765.
- on point of order on Snow, 759.
- on refusing to vote on section 1, elections and suffrage, 768.

JAMES, WILLIAM F. (Continued.)

Remarks—

- on motion to amend section 2, elections and suffrage, 771.
- on motion to amend section 14, elections and suffrage, 789, 790, 1480.
- on motion to suspend rules on elections and suffrage, 801.
- on ordinance, 810.
- on motion to strike out section 1, apportionment, 822, 823.
- on motion to amend section 4, apportionment, 826, 837.
- on motion to adopt section 4, minority report, legislative, 894.
- sustaining decision of chair, 896.
- on Roberts's amendment to legislative article, 907, 908, 913, 919.
- on motion to strike out section 35, legislative, 945.
- on appeal from chair on vote on section 36, legislative, 962, 966, 967.
- on motion to amend section 31, legislative, 974.
- on motion to reconsider section 36, legislative, 987, 993, 1001, 1002.
- on voting on reconsideration of section 36, legislative, 1003.
- on voting on legislative article, 1005.
- on motion to amend section 12, executive, 1010.
- on point of order on motion to amend section 20, executive, 1018.
- on motion to amend section 20, executive, 1027, 1028.
- on motion to strike out section 5, taxation and revenue, 1100, 1101, 1102.
- on motion to amend section 3, public debt, 1126.
- on motion to reconsider section 1, suffrage, 1145, 1148, 1149, 1150.
- on amendment to labor, 1171, 1172.
- on water rights, 1204, 1685.
- on motion to reconsider adoption of accounts, 1236.
- on motion to amend section 4, education, 1340, 1342, 1343, 1348, 1351, 1369.
- on mines and mining, 1424, 1425, 1426, 1428, 1525, 1526, 1529, 1530, 1531, 1534, 1544.

JAMES, WILLIAM F. (Continued.)

Remarks—

- on corporations, 1464, 1465, 1604, 1681.
- on section 2, corporations, 1467, 1468, 1654, 1655.
- on motion to amend section 11, corporations, 1471, 1548, 1551, 1554, 1556, 1661, 1662.
- on motion for night sessions, 1478.
- on section 14, corporations, 1555, 1556, 1557, 1558, 1559, 1560, 1666.
- on section 15, corporations, 1560.
- on section 16, corporations, 1562.
- on section 20, corporations, 1563.
- on section 21, corporations, 1566, 1567.
- on section 25, corporations, 1579, 1580, 1581, 1672, 1673, 1674, 1677.
- on section 26, corporations, 1583, 1584, 1588, 1589, 1591.
- on section 28, corporations, 1592, 1593, 1594.
- on section 29, corporations, 1594, 1595, 1596.
- on section 30, corporations, 1597.
- on section 32, corporations, 1598.
- on section 33, corporations, 1599.
- on section 34, corporations, 1600.
- on section 36, corporations, 1601.
- on section 37, corporations, 1602, 1603.
- on section 3, public buildings, 1616, 1625.
- on section 4, public buildings, 1626.
- on section 6, public buildings, 1629.
- on schedule, 1649, 1738.
- on section 2, corporations, 1655, 1656, 1657.
- on section 9, corporations, 1659.
- on section 10, corporations, 1661.
- on section 38, corporations, 1679.
- on miscellaneous, 1778, 1779, 1786, 1801.
- on committee on address, 1787.
- on revision, 1809, 1815, 1816, 1817, 1818, 1819, 1820.

Reports—

- back matter from committee on corporations, 301.
- as chairman of committee on corporations, 1182.

JAMES, WILLIAM F. (Continued.)

Seconds—

- motion of Hart on librarian, 64.
- Varian's motion on minutes, 107.
- Cannon's motion to go into committee of the whole, 703.

JAMES, SPENCER, BATEMAN & CO.

- bids on tin boxes, 145.

JAYNE, REV. GEORGE E., of the Methodist Episcopal Church.

- offered prayer, 933.

JOHNSON, BRUCE, Salt Lake City.

- watchman, 2.
- elected watchman, 49.
- nominated for watchman by Richard G. Lambert, 49.
- sworn in as watchman, 55.

JOHNSON, LYCURGUS, Member from Vernal, Uintah County.

Appointed—

- on committee to name standing committees, 38.
- on committee on apportionment and boundary, 66.
- on committee on water rights and irrigation, 66.

Excused by Low of Cache County, 162.

Presents—

- proposition for insertion in Constitution on irrigation, 218.

Remarks—

- on motion to amend section 13, legislative, 878.

JOHNSON, JACOB.

- admitted to floor, 331.

JOHNSON, L. C.

- nominated as committee clerk, 120, 124.

JOLLEY, J. L., Member from Moroni,
Sanpete County.

Appointed—

on committee to name standing committees, 38.

on executive committee, 66.

on committee on corporations, 66.

Excused to attend session of committee on suffrage, 162.

Excused, 763, 817.

Moves—

to amend section 5, taxation and revenue, 1178.

to adopt section 2, minority report, 1217.

to amend section 10, education, 1296, 1300.

to amend section 26, corporations, 1591.

to refer back article on school lands, 1703.

to amend on revision, 1803.

for speech from the governor, 1851.

Presents—

petition for suffrage to go into Constitution, 994.

proposition for insertion in Constitution on regulation of water, 300.

proposition for insertion in Constitution on taxing professional men, 300.

Remarks—

on excusing of Christianson, 53.

on motion to postpone action on elections and suffrage, 701, 702.

on question of taking oath, 13.

on mileage, 154.

on motion to amend section 4, bill of rights, 249.

on suffrage, 536, 538, 542, 1722.

on motion to strike out section 10, elections and suffrage, 611, 612.

on motion to recommit elections and suffrage, 735.

on passage of section 1, elections and suffrage, 770.

on apportionment, 862.

on motion to amend section 13, legislative, 874.

JOLLEY, J. L. (Continued.)

Remarks—

on Roberts's amendment to legislative article, 922, 923.

on motion to amend section 12, taxation and revenue, 1112.

on article on labor, 1166, 1168, 1170, 1171.

on motion to amend section 5, taxation and revenue, 1179.

on voting on taxation and revenue, 1181.

on motion to amend section 4, public debt, 1190.

on water rights, 1204, 1218, 1233.

on motion to amend section 10, education, 1300.

on motion to amend section 2, education, 1302.

on motion to amend section 5, judiciary, 1317.

on motion to amend section 20, judiciary, 1380, 1381, 1518.

on motion to adopt majority report on prohibition, 1456.

on motion to amend section 2, judiciary, 1497.

on section 11, corporations, 1550.

on section 1, public lands, 1605.

on new section to public lands, 1608.

on section 6, public buildings, 1627, 1716, 1725, 1727.

on section 4, public lands, 1690, 1691, 1692.

on voting on public lands, 1704.

on miscellaneous, 1772.

on revision, 1833.

Seconds—

motion to amend section 20, executive, 1018.

motion to adopt report of committee on credentials, 37.

Wells's motion to amend section 1, elections and suffrage, 710.

motion to vote singly on pages, 55.

Takes oath as a member, 13.

KEARNS THOMAS, Member from
Park City, Summit County.

Appointed—

- on executive committee, 66.
- on committee on salaries of public officers, 67.
- chairman of committee on mines and mining, 67.
- Excused to attend session of committee on suffrage, 162.

Moves—

- to adjourn, 12, 1522.
- to adopt report of committee on stenographer, 91.
- to elect by acclamation committee clerk, 123, 124.
- to amend Brandley's resolution for relief of mine calamity in Wyoming, 319.
- to take a recess, 599.
- to pass section 20, executive, 1017.
- to amend section 20, executive, 1153.
- a new section to article on labor, 1170.
- to amend section 3, mines and mining, 1524.
- a substitute on adjournment, 12.
- nominates Thomas S. Watson as mesenger, 49, 50.
- offers substitute to section 22, bill of rights, 650.
- excuse for Keith, 65.

Presents—

- proposition for insertion in Constitution on judiciary, 114.
- proposition for insertion in Constitution on charters, 163.
- petition from Summit County on underground labor, 297.
- proposition for insertion in Constitution on length of day's work, 299.
- petition for separate submission of suffrage, 850, 888, 1084, 1142.

Remarks—

- on motion to amend section 1, executive, 653, 654.
- on motion to amend section 20, executive, 1018.
- on motion to strike out section 3, labor and arbitration, 1054.

KEARNS, THOMAS (Continued.)

Remarks—

- on motion to amend section 7, labor and arbitration, 1064.
- on motion to amend section 4, taxation and revenue, 1078, 1079.
- on motion to amend section 20, executive, 1155, 1159.
- on labor article, 1164, 1171, 1172.
- on motion to amend section 2, mines and mining, 1413.
- on motion to strike out section 3, mines and mining, 1414, 1416, 1421, 1426, 1429, 1431, 1528, 1531, 1541, 1543, 1544.
- on miscellaneous, 1768, 1770.
- on minority report of committee on standing committees, 57.
- on motion to adopt report of stenographer, 91.
- on motion to amend section 4, bill of rights, 235, 238.
- on motion to take a recess, 599.

Reports as chairman of committee on mines and mining, 1084.

Seconds—

- Van Horne's motion relating to chaplain, 56.
- Roberts's motion to amend section 4, bill of rights, 238.
- motion to read report of committee on preamble, 200.
- motion to stop debate on suffrage, 563.

Yields his time to Roberts, 421, 461.

KEITH, DAVID, Member from Park City, Summit County.

Appointed—

- on committee to name standing committees, 38.
- on legislative committee, 65.
- on committee on corporations, 66.

Excused, 65, 1585.

Presents—

- petition for separate submission of suffrage, 1143.

KIELY, REV. DENNIS, of the Roman Catholic Church.
offered prayer, 162.

KIESEL, F. J., Member from Ogden, Weber County.

Appointed—

on committee on elections and suffrage, 66.

on committee on corporations, 66.

on committee on manufactures and commerce, 67.

Asks privilege of the floor for John Watson, Nathan Tanner and Joseph Stanford, of Ogden, 142.

Calls for division, 156.

Excused, 203.

Moves—

to refer report of committee on stenographer, 95, 96.

that the mayor of Salt Lake be allowed the freedom of the floor, 117.

for chairman of committees to meet and formulate schedule of meetings, 117.

to elect Miss Clark by acclamation, 121.

to submit election of committee clerks to committee, 122.

to amend rules, 137.

to amend motion, 144.

on mileage and per diem, 158.

to not receive report on suffrage, 264.

to amend on current expenses, 273.

to amend section 5, counties, cities and towns, 401.

to adjourn, 492.

to give Roberts all the time wanted, 518.

to adjourn to morning, 567.

to adjourn to some other place to hear debate on suffrage, 579.

to amend section 20, executive, 1017.

to strike out section 1, public debt, 1116.

to amend section 1, public debt, 1117.

to amend section 10, education, 1292.

to strike out section 37, corporations, 1602.

KIESEL, F. J. (Continued.)

Moves—

a new section to public lands, 1610.

to reject invitation to reception, 1654.

to amend section 2, corporations, 1655.

to amend section 10, corporations, 1661.

to strike out section 11, corporations, 1661.

Nominates—

Newton Farr as enrolling clerk, 50.

C. R. Pratt as page, 55.

L. C. Johnson as committee clerk, 149.

Offers substitute for section 1, elections and rights of suffrage, 420.

Oath was administered to, 39.

Presents—

petition for separate submission of suffrage, 769, 888, 934, 1143.

proposition for insertion in Constitution on corporations, 192.

proposition for insertion in Constitution on fish and game, 272.

proposition for insertion in Constitution on preservation of forests, 272.

Remarks—

on voting for enrolling clerk, 51, 52.

on motion to form schedule of meetings, 117, 119.

on amending of rules, 137.

on memorial on suffrage, 142, 143.

on report on committee on expenses, 151, 152.

on question of order, 156.

on motion on per diem, 158.

and request that the Rabbi be invited to open by prayer, 162.

opposing motion for committee on elections and suffrage to report, 264, 265, 268.

on motion to print minority report on suffrage, 408.

on motion to extend time, 518.

on suffrage, 531, 532, 576.

on motion to recommit elections and suffrage, 716.

on motion to recommit elections and suffrage, 734, 735, 743, 744, 747.

KIESEL, F. J. (Continued.)

Remarks—

- on motion to amend section 20, executive, 1017, 1024, 1028.
- on motion to amend section 3, public debt, 1128.
- on motion to amend section 5, public debt, 1136, 1137, 1140.
- on motion to reconsider suffrage, 1149.
- on motion to amend section 10, education, 1292, 1293, 1294, 1296, 1299.
- on motion to amend section 4, education, 1342, 1369.
- on motion to amend section 1, judiciary, 1403.
- on motion to adopt majority report on prohibition, 1442, 1445, 1446.
- on section 11, corporations, 1662.

Seconds—

- Button's motion on seats, 73.
- Richards's motion to record members, 142.

Signed minority report of committee on elections and rights of suffrage, 408.

Withdraws—

- motion on mileage, 158.
- motion on report on stenographer, 100.
- motion to amend section 20, executive, 1017.
- motion to amend section 1, public debt, 1118.

Yields his time to Roberts, 421.

KERR, W. J., Member from Logan, Cache County.

Appointed—

- on committee to name standing committees, 38.
- on legislative committee, 65.
- on committee on education and school lands, 66.
- on committee on revenue, taxation and public debt, 67.
- on committee on engrossment and enrollment, 67.
- on committee to prepare address, 1802.

KERR, W. J. (Continued.)

Moves—

- to make report of committee on education special order, 228.
- to adjourn, 36.
- to elect permanent president, 86.
- to amend motion relating to permanent officers, 43.
- to adjourn, 53.
- that committee on printing correct minutes, 174.
- to amend section 2, education and school lands, 367.
- to amend motion on section 5, elections and suffrage, 619.
- to amend substitute to section 1, militia, 815.
- to amend section 7, legislative, 867.
- to strike out section 9, labor and arbitration, 1066.
- to amend section 8, public debt, 1141.
- to amend section 20, executive, 1158.
- to amend motion to section 8, education, 1291.
- to adopt new section 9, education, 1362.
- the previous question, 1493.
- to amend section 2, judiciary, 1501.
- to amend section 5, judiciary, 1502.
- to amend section 20 and 21, bill of rights, 1719, 1720.
- to amend elections and right of suffrage, 1721, 1723.

Presents—

- proposition for insertion in Constitution on education, 113.
- petition for separate submission of suffrage, 1084.
- petition for suffrage to go in the Constitution, 1143.

Remarks—

- on Crane's motion, 36.
- on motion to amend motion relating to permanent officers, 44.
- on motion to adjourn, 53.
- on adopting of rules, 133.
- on motion to refer correcting of minutes, 174.

KERR, W. J. (Continued.)

Remarks—

- on motion to make educational report special order, 228.
- on report of committee on accounts and expenses, 298.
- on motion to amend section 2, education and school lands, 367, 370, 376, 377, 383, 391.
- on motion to refer back article on education and school lands, 396.
- on Richards's motion to amend elections and suffrage, 620.
- on motion to amend section 3, amendments, 675.
- on motion to postpone action on elections and suffrage, 685, 686, 687.
- on explanation of vote on postponement, 686.
- on motion to amend section 8, elections and suffrage, 782.
- on motion to amend section 14, elections and suffrage, 792, 1486, 1487, 1490, 1491.
- on voting on elections and suffrage, 805.
- on ordinance, 811.
- on motion to amend section 2, apportionment, 860.
- on motion to strike out section 9, labor and arbitration, 1066, 1067.
- on motion to amend section 3, taxation and revenue, 1115.
- on motion to amend section 1, public debt, 1121.
- on motion to amend section 3, public debt, 1124, 1133, 1134.
- on motion to amend section 8, public debt, 1142.
- on motion to amend section 20, executive, 1154, 1156, 1157.
- on motion to amend section 2, education, 1228, 1304.
- on motion to amend section 5, education, 1237, 1238, 1247, 1248, 1251, 1252, 1258, 1261, 1279, 1280, 1282, 1283, 1284, 1337, 1339, 1340, 1351.
- on motion to amend section 7, education, 1290.

KERR, W. J. (Continued.)

Remarks—

- on motion to amend section 10, education, 1291.
- on motion to amend section 5, education, 1305, 1306, 1307.
- on voting on substitute to section 4, education, 1372.
- on motion to amend section 20, judiciary, 1377.
- on motion to amend section 1, judiciary, 1403.
- on section 5, judiciary, 1502, 1503.
- on section 21, corporations, 1564, 1565, 1568.
- on section 25, corporations, 1582.
- on public lands, 1698.
- on public buildings, 1712, 1715, 1724, 1725, 1727, 1729, 1730.
- on point of order on motion to amend section 6, public buildings, 1716, 1734.
- on schedule, 1740, 1749, 1759.
- on revision, 1789, 1790, 1849.
- on printing proceedings, 1839, 1842, 1844.

Yields his time to Roberts, 421.

KIMBALL, ANDREW, Member from Third Precinct, Salt Lake City.

Appointed—

- on committee on preamble, 65.
- on committee on manufactures and commerce, 67.

Moves—

- to amend subdivision on ordinance, 806.
- to amend section 9, corporations, 1658.
- to make new matter, section 22, corporations, 1667.
- a resolution for absentees, 1823.

Presents—

- proposition for insertion in Constitution on superintendency of schools, 166.
- proposition for insertion in Constitution on arbitration, 202.
- proposition for insertion in Constitution on referendum, 226.

KIMBALL, ANDREW (Continued.)

Remarks—

- on voting for enrolling clerk, 51.
- on adopting rules, 135.
- on referring proposition on prohibition, 299.
- on suffrage, 543.
- on motion to strike out section 10, elections and suffrage, 608.
- on motion to recommit elections and suffrage, 749, 750.
- on motion to amend section 8, elections and suffrage, 782.
- on motion to amend ordinance, 806.
- on motion to amend section 1, labor and arbitration, 1037.
- on voting on substitute to section 4, education, 1372.
- on motion to adopt majority report on prohibition, 1457.
- on motion for night sessions, 1477.
- on corporations, 1550, 1559.
- on section 23, corporations, 1577.
- on section 25, corporations, 1580, 1671, 1673, 1674, 1676.
- on section 3, public buildings, 1626.
- on section 9, corporations, 1659, 1660, 1661.
- on voting on corporations, 1682.
- on public buildings, 1730.
- on miscellaneous, 1786.
- on review, 1821.
- on printing Constitution, 1825.
- on printing proceedings, 1838.

Seated by report of committee on credentials, 37.

KIMBALL, JAMES N., Member from Ogden, Weber County.

Address to Convention when made temporary president, 11, 12.

Appointed—

- on legislative committee, 65.
- on committee on municipal corporations, 66.

Appeals from decision of chair, 336.

Called to chair in committee of the whole, 203, 406, 457.

KIMBALL, JAMES N. (Continued.)

Calls for previous question on substitute for section 22, bill of rights, 649.

Excused, 79, 312.

Elected temporary chairman, 11.

Moves—

- to defer reading of rules until printed, 80.
- to pay clerk hire for committee on rules, 80.
- to refer propositions to printing committee, 108.
- to refer petition, 142.
- to elect committee clerks, 760.
- to adopt report, 145, 149.
- to reject part of report, 151.
- to lay resolution on table, 228.
- to amend section 4, bill of rights, 235, 237, 364.
- to amend section 15, bill of rights, 323.
- to take up bill of rights on third reading, 405.
- for unanimous consent for Roberts to close debate on suffrage, 517.
- a substitute for section 22, bill of rights, 625.
- to adopt preamble, 652.
- to go into committee of the whole, 653.
- to amend section 1, executive, 653.
- previous question on section 22, bill of rights, 649.
- to amend section 4, minority report on legislative, 891, 893.
- to strike out section 35, legislative, 938.
- to go into committee of the whole, 1006.
- to strike out section 8, taxation and revenue, 1108.
- to amend section 15, judiciary, 1393.
- to amend section 6, public buildings, 1628, 1709.
- to amend section 4, schedule, 1629.
- to amend section 11, schedule, 1653.
- to amend section 10, corporations, 1661.

KIMBALL, JAMES N. (Continued.)

Moves—

- to amend section 1, public lands, 1686.
- to postpone reading of public salaries, 1705.
- to continue regular order, 1717.
- to amend on revision, 1822.

Offers—

- excuse for absence, 79.
- amendment to rule 1, 87.
- amendment to resolution on stenographer, 224.

President pro tem—

- names committee on credentials, 12.
- remarks on duties of committee on credentials, 13.
- remarks on members taking oath, 13.
- calls Convention to order, 13, 36.
- names committee on site and furniture, 36.
- remarks on motion to refer back report of committee on credentials, 26, 27, 33, 35, 37.

Remarks—

- on motion to adjourn, 36.
- on motion to select committee to name permanent committees, 37.
- on Van Horne's resignation from committee on site, 38.
- on question of mileage, 79.
- on reading rules, 80, 81.
- on motion to change time of meeting, 88.
- on point of order on Howard, 89.
- on official stenographer, 91, 96, 99.
- on correction of minutes, 106.
- on motion to correct minutes, 108.
- on memorial on suffrage, 142, 143.
- on petition on prohibition, 144, 299.
- on report of committee on expenses, 146, 147, 148, 149, 150, 151, 152, 153, 154.
- on motion to refer, 156, 163.
- on petition from ladies of Weber County, 157.
- on election of committee clerks, 159.
- on motion to refer memorial on suffrage, 162.
- on proposition for insertion in Constitution, 163.

KIMBALL, JAMES N. (Continued.)

Remarks—

- on proposition for non-partisan school election, 166.
- on motion to adjourn, 167, 168, 169, 170, 172.
- on motion on stenographer, 224.
- on motion of Wells to read first and second time by title, 226, 227.
- on motion to amend section 4, bill of rights, 234, 235, 237, 238, 239, 240, 241, 363, 364.
- on motion to amend section 24, bill of rights, 339.
- on suffrage, 517, 518, 519, 520, 594, 600.
- on motion to strike out section 10, elections and suffrage, 608.
- on motion to amend section 22, bill of rights, 641, 649, 650, 651.
- on motion to adopt preamble, 652.
- on motion to amend section 1, executive, 653, 654, 655.
- on motion to amend section 8, legislative, 935, 936.
- on motion to strike out section 35, legislative, 940.
- on motion to adopt section 36, legislative, 952, 953.
- on appeal from chair on adoption of section 36, legislative, 958, 961.
- on motion to amend section 36, legislative, 1003, 1004.
- on motion to amend section 12, executive, 1008.
- on motion to strike out section 1, labor and arbitration, 1040.
- on motion to strike out section 8, taxation and revenue, 1109.
- on motion to amend section 12, taxation and revenue, 1111.
- on motion to amend section 4, education, 1362, 1372.
- on motion to amend section 20, judiciary, 1386, 1387, 1390, 1517.
- on motion to amend section 15, judiciary, 1393, 1394, 1396, 1397.
- on mines and mining, 1525, 1534, 1535, 1536, 1537, 1538.
- on schedule, 1653.

KIMBALL, JAMES N. (Continued.)

Remarks—

- on communication presented by Richards, 1683.
- on section 3, public buildings, 1706, 1707.
- on section 6, public buildings, 1710, 1711, 1714, 1715, 1716.
- on revision, 1819, 1820, 1821, 1823.

Requests Moritz to act on committee on site, 38.

Seconds—

- the motion of Evans on secretary, 80.
- Goodwin's motion to adopt rules for one day, 89.
- Squires's motion to refer, 648.

Withdraws—

- motion on rules, 81.
- second to Squires's motion to refer, 649.

LAMBERT, RICHARD G., Member from Second Precinct, Salt Lake City.

Appointed—

- on legislative committee, 65.
- chairman of committee on printing, 67.
- on committee on compilation and arrangement, 67.

Moves—

- that printing committee get bids, 117.
- that report of the committee on printing be adopted, 190.
- to amend section 1, elections and suffrage, 600.
- to amend section 1, elections and suffrage, 766.
- to amend section 22, legislative, 883.
- to strike out section 5, miscellaneous, 1782.
- on revision, 1804.
- a resolution on printing Constitution, 1824.
- to allow chairman of printing committee compensation, 1844.

Nominates Bruce Johnson for watchman, 49.

LAMBERT, RICHARD G. (Continued.)

Offers substitute to section 1 and 2, elections and rights of suffrage, 420.

Presents—

- report of committee on printing, 190.
- resolution pertaining to printing, rules, 104.
- Reports as chairman of committee on printing, 91, 108, 190, 200, 1835.
- Requests privilege to present, 188.
- Requests to read motion to refer back report on credentials, 35.

Remarks—

- on report of committee, 109.
- on resolution for bids for stationery, 117, 118.
- on election of committee clerk, 120.
- on adopting rules, 140, 141.
- on matter of printing, 193.
- on motion to read report of committee on preamble, 201.
- on suffrage, 549, 553, 599.
- on motion to amend section 22, bill of rights, 635, 636.
- on motion to amend section 1, elections and suffrage, 766.
- on voting on section 1, elections and suffrage, 768.
- on voting on elections and suffrage, 805.
- on voting on legislative article, 1005.
- on motion to amend section 3, public debt, 1129.
- on motion to amend section 4, public debt, 1189.
- on night sessions, 1477.
- on motion to take reconsideration of section 14, elections, from table, 1482, 1483.
- on a point of order, 1530.
- on miscellaneous, 1772.
- on revision, 1788, 1811, 1812.
- on printing Constitution, 1825, 1844, 1846.
- Withdraws amendment to section 1, elections and rights of suffrage, 601.

LARSEN, LAURITZ, Member from
Spring City, Sanpete County.

Appointed—

- on legislative committee, 65.
- on committee on water rights and irrigation, 66.
- on committee on labor and arbitration, 67.

Moves—

- to lay amendment on table, 1292.
- to amend section 36, legislative, 1003.
- to amend section 6, legislative, 975.
- to amend section 7, legislative, 867.
- to amend substitute to section 13, legislative, 877.
- to amend section 20, legislative, 936.
- to amend section 6, public buildings, 1710.
- to amend motion on printing Constitution, 1844.

Presents—

- proposition for insertion in Constitution on salaries of public officers, 244.
- petition from C. W. Lund and others on prohibition, 621.
- petition for separate submission of suffrage, 1143.

Remarks—

- on resolution on senators and representatives, 185.
- on suffrage, 522, 523, 524.
- on motion to strike out section 10, elections and suffrage, 612.
- on motion to recommit elections and suffrage, 752.
- on voting on section 4, apportionment, 855.
- on motion amend section 13, legislative, 873.
- on Roberts's amendment to legislative article, 918.
- on motion to amend section 31, legislative, 975.
- on motion to amend section 36, legislative, 1003, 1004.
- on voting on legislative article, 1005.
- on water rights, 1203, 1216, 1233.

LARSEN, LAURITZ (Continued.)

Remarks—

- on motion to amend section 10, education, 1298.
- on motion to strike out section 2, education, 1333.
- on motion to adopt minority report on prohibition, 1460.
- on motion to reconsider section 14, elections, 1483.
- on section 23, corporations, 1573.
- on section 6, public buildings, 1710, 1730.

Reported a minority on committee on irrigation, 711.

LARSEN, C. P., Member from Manti, Sanpete County.

Appointed—

- on committee on preamble, 65.
- on committee on apportionment and boundary, 66.

Presents—

- petition for suffrage to be submitted as a separate article, 1084.
- petition for separate submission of prohibition, 711, 770, 851.

Remarks—

- on site to hold Convention, 62.
- on suffrage, 567.
- on Roberts's amendment to legislative article, 912.

LEMMON, HYRUM, Member from Payson, Utah County.

Appointed—

- on committee on water rights and irrigation, 66.
- on committee on revenue, taxation and public debt, 67.

Presents—

- petition for separate submission of suffrage, 769.

Remarks—

- on section 4, public lands, 1691, 1692.

LEONARD, REV. A. B., of the Episcopal Church.

offered prayer, 126.

LETT, W. H.

signs invitation to ball and reception, 1827.

LEWIS, T. B., Member from Ogden, Weber County.

Appointed—

on committee on preamble, 65.

on committee on education and school lands, 66.

Excused, 1142.

Moves—

to amend title to article on education, 367.

to suspend rules, 102.

Presents—

proposition for insertion in Constitution, 102.

proposition for insertion in Constitution on protecting settlers on school lands, 166.

petition from Weber County on prohibition, 495.

Remarks—

on oath for stenographer, 101.

on motion to amend section 2, education and school lands, 369, 375, 377, 378, 381.

on motion to postpone action on elections and suffrage, 695.

on motion to recommit elections and suffrage, 747, 748.

on motion to strike out section 11, legislative, 868.

LOWE, WILLIAM, Member from Willard, Box Elder County.

Appointed—

on committee on water rights and irrigation, 66.

on committee on engrossment and enrollment, 67.

LOWE, WILLIAM (Continued.)

Presents—

proposition for insertion in Constitution on water rights, 226.

petition for suffrage to go into the Constitution, 934.

LOWE, PETER, Member from Willard, Box Elder County.

Appointed—

on committee on election and suffrage, 66.

on committee on revenue, taxation and public debt, 67.

Nominates Miss Eastman as committee clerk, 124.

Presents—

petition favoring the insertion of suffrage, 769.

petition for separate submission of suffrage, 809.

LOWELL, REV. D. R., chaplain 16th Infantry.

offered prayer, 223.

LYMAN, APOSTLE F. M., of the Church of Jesus Christ of Latter-day Saints.

offered prayer, 578.

LOW, JAMES P., Member from Smithfield, Cache County.

Appointed—

on committee on public buildings and State institutions, 66.

on committee on public lands, 66.

Asks leave to withdraw report, 108.

Excused, 136, 312.

Excused by Sorenson, 319.

Moves—

to refer proposition to tax professional men, 300.

relating to selection of seats, 72.

to amend report on salaries, 148.

to refer Jolley's proposition to committee, 300.

to amend section 3, amendments, 407.

LOW, JAMES P. (Continued.)

Moves—

- for previous question, 411.
- to amend section 1, executive, 656.
- to amend section 2, executive, 659.
- to go into committee of the whole, 819.
- a substitute to section 12, executive, 1153.
- to amend section 5, judiciary, 1314.

Presents—

- proposition for insertion in Constitution on corporations, 157.
- proposition for insertion in Constitution on State institutions, 166.
- proposition for insertion in Constitution on stock and contagious diseases, 300.
- proposition for insertion in Constitution on right of way, 300.
- petition for separate submission of suffrage, 851.
- petition for suffrage to go in Constitution, 1143.
- report of committee on public buildings, 108, 109.
- proposition on executive for insertion in Constitution, 113.

Remarks—

- on question of selecting seats, 73.
- on report of committee on public buildings, 109.
- on report of committee on accounts and expenses, 149.
- on motion on per diem, 158.
- on election of committee clerk, 165.
- on proposition on right of way, 300.
- on motion to refer back article on education and school lands, 395.
- on motion to print report of minority on suffrage, 411.
- on suffrage, 566, 567, 574.
- on motion to amend section 1, executive, 656, 657.
- on motion to amend section 2, executive, 659.
- on motion to amend section 3, executive, 661, 662.
- on section 9, executive, 666.

LOW, JAMES P. (Continued.)

Remarks—

- on motion to amend section 3, amendments, 676.
- on motion to postpone action on elections and suffrage, 701.
- on motion to recommit elections and suffrage, 727, 746, 755.
- on motion to amend section 8, elections and suffrage, 780, 781.
- on motion to recommit public lands, 813, 815.
- on motion to amend section 1, militia, 816.
- on motion to go into committee of the whole, 820.
- on presenting an unsigned petition for separate submission of suffrage, 851, 852.
- on motion to strike out section 29, legislative, 886.
- on substitute to section 12, executive, 932, 1152, 1153.
- on motion to amend section 4, education, 1368.
- Requests excuse for Johnson and Warum, 162.
- Seconds nomination of Joseph A. Smith, 50.

LUND, A. C., Member from Ephraim, Sanpete County.

Appointed—

- on committee on site, 36.
- on executive committee, 66.
- on committee on education and school lands, 66.
- chairman of committee on accounts and expenses, 67.
- Asks privilege of floor for Mr. Green, 217.

Moves—

- to suspend rules and adjourn, 1802.
- to take report of committee on expense from table, 1144.
- to amend motion of Low on salaries, 149.
- on salaries of committee clerks, 150.

LUND, A. C. (Continued.)

Moves—

- on accounts and expense, 271.
- to amend apportionment, 863.

Nominates R. Clawson as sergeant-at-arms, 49.

Presents—

- petition for separate submission of prohibition, 770, 851, 852, 1143.

Reports—

- on matters before committee on accounts, 101.
- as chairman of accounts and expenses, 110, 145, 191, 298, 712, 1083, 1201.

Remarks—

- on report of committee on accounts, 146, 148, 150, 151, 152, 153, 154.
- on motion to adjourn, 169.
- on duties of committee on accounts and expenses, 271, 272.
- on motion to meet contingent expenses, 273.
- on motion to amend section 2, education and school lands, 381.
- on motion to pass section 1, elections and rights of suffrage, 458, 459, 484, 485, 486.
- on motion to recommit elections and suffrage, 759.
- on presenting petition for separate submission, 852.
- on apportionment, 862.
- on motion to strike out section 5, taxation and revenue, 1108.
- on report of committee on expense, 1144.
- on motion to amend section 20, executive, 1155.
- on motion to amend section 2, education, 1227.
- on motion to amend section 5, education, 1249.
- on motion to amend section 10, education, 1291, 1299, 1300.
- on section 23, corporations, 1572, 1576.
- on resolution on final reading of articles, 1586.

LUND, A. C. (Continued.)

Remarks—

- on section 6, public buildings, 1710, 1711, 1718, 1724, 1725, 1729, 1730, 1732, 1733.
- on miscellaneous, 1780, 1782.
- on revision, 1821.
- on compensation for stenographer, 1825, 1826.
- on printing proceedings, 1844.

MABRY, REV. W. D., of the Methodist Episcopal Church.

- offered prayer, 141.

MADISON, MISS EMMA,

- nominated as committee clerk, 159.

MARTIN, REV. A. M., of the Swedish Lutheran Church.

- offered prayer, 850.

MACMASTERS, MISS B. T., Salt Lake City.

- committee clerk, 2.
- elected committee clerk, 123.
- nominated for committee clerk by Squires, 120.

MACKINTOSH, RICHARD, Member from Second Precinct, Salt Lake City.

Appointed—

- on executive committee, 66.
- on committee on elections and suffrage, 66.
- chairman of committee on salaries of public officers, 67.
- on committee on mines and mining, 67.

Moves—

- to receive and print minority report of committee on elections and rights of suffrage, 408.
- a substitute for amendment to section 3, executive, 663.

MACKINTOSH, R. (Continued.)

Moves—

- to amend section 1, militia, 815.
- to amend section 3, labor and arbitration, 1054, 1056.

Presents—

- petition for separate submission of suffrage, 888, 1143.

Remarks—

- on motion to report elections and suffrage, 317.
 - on motion to take up elections and rights of suffrage, 414.
 - on suffrage, 498, 499, 529, 543.
 - on motion to amend section 3, executive, 660, 661.
 - on motion to amend section 1, militia, 815.
 - on motion to amend section 1, labor and arbitration, 1043.
 - on motion to amend section 3, labor and arbitration, 1054.
 - on motion to amend section 2, taxation and revenue, 1073, 1074.
 - on motion to amend section 4, taxation and revenue, 1076, 1077.
 - on motion to adopt majority report on prohibition, 1460.
- Reports as chairman of committee on public officers, 1522.
- Signed minority report of committee on elections and rights of suffrage, 408.
- Seconds Kiesel's substitute for section 1, suffrage, 420.

MAESER, KARL G., Member from Provo, Utah County.

Appointed—

- on committee on education and school lands, 66.
- on committee on schedule, future amendments and miscellaneous, 67.

Moves—

- to amend section 2, education and school lands, 368, 1218.
 - to amend section 8, education, 1291.
 - to amend section 4, education, 1372.
- Offered prayer, 1232.

MAESER, KARL G. (Continued.)

Presents—

- proposition for insertion in Constitution on public instruction, 201.
- petition from citizens of Provo on prohibition, 345.

Remarks—

- on motion to amend section 2, education and school lands, 368, 370, 373, 382, 1302, 1334.
- on suffrage, 560.
- on motion to amend section 3, executive, 661, 662.
- on voting on legislative article, 1005.
- on motion to amend section 20, executive, 1155.
- on motion to amend section 5, education, 1248, 1288, 1308, 1311.
- on section 6, public buildings, 1711, 1727.
- on motion to adopt majority report on prohibition, 1434.
- on revision, 1807.

MALONEY, THOMAS, Member from Ogden, Weber County.

Appointed—

- on committee to name standing committees, 38.
- on judiciary committee, 66.
- on committee on corporations, 66.

Moves—

- to amend resolution adopting Constitution of United States, 56.
- to amend section 5, bill of rights, 252.
- to insert new matter for section 25, bill of rights, 362.
- to amend section 3, amendments, 675.
- to amend section 1, elections and suffrage, 711.
- to amend section 1, labor, 1168.
- to strike out water rights, 1202.
- to add new section to judiciary, 1397.
- to strike out section 3, mines and mining, 1413.
- to reconsider vote, 1522.
- to amend section 1, public lands, 808, 1604, 1606, 1686.

MALONEY, THOMAS (Continued.)

Moves—

- to amend section 3, public lands, 1607.
- to adjourn, 1522.
- a section to schedule, 1653.
- a substitute for section 14, corporations, 1663.
- to amend motion to section 2, miscellaneous, 1772.
- to number sections consecutively, 1795.
- to change miscellaneous to homestead and exemptions, 1797.
- for reading of Strevell's proposition, 112.
- resolution against incurring debt, 273.

Presents—

- proposition for insertion in Constitution on requiring decisions from judges, 166.
- proposition for insertion in Constitution, 102.
- proposition relating to homesteads for Constitution, 112.
- proposition relating to insurance for Constitution, 112.
- proposition for insertion in Constitution on benefits, 113.
- proposition for insertion in Constitution requiring opinions from supreme court, 165.
- proposition for insertion in Constitution on defect in laws, 165.
- proposition for insertion in Constitution on free publication of supreme court decisions, 165.
- proposition for insertion in Constitution requiring judges to give opinions, 165.
- proposition for insertion in Constitution on supreme court decisions, 165.
- proposition for insertion in Constitution on decisions of courts, 166.
- proposition for insertion in Constitution on compact, 203.
- proposition for insertion in Constitution on irrigation, 244.
- proposition for insertion in Constitution on election of representatives, 244.

MALONEY, THOMAS (Continued.)

Presents—

- proposition for insertion in Constitution on judiciary, 201.

Remarks—

- on election of enrolling clerk, 50.
- on report of committee on sites and furniture, 55.
- on Judge Goodwin's appointment as chairman of judiciary committee, 68.
- on printing Enabling Act, 77.
- on drawers for tables, 116.
- on adopting rules, 129.
- on resolution on senators and representatives, 179.
- on motion to amend section 5, bill of rights, 253, 256.
- on motion to amend section 11, bill of rights, 305.
- on motion to amend section 12, bill of rights, 310, 311.
- on motion to amend section 13, bill of rights, 313.
- on motion to amend section 21, bill of rights, 325.
- on motion to amend section 5, counties, cities and towns, 401.
- on motion to amend section 22, bill of rights, 628.
- on motion to amend section 3, amendments, 675, 676.
- on motion to amend section 14, elections and suffrage, 797.
- on motion to amend ordinance, 806.
- on motion to amend section 1, public lands, 808, 809.
- on motion to amend section 1, militia, 818.
- on motion to amend section 1, apportionment, 821.
- on Roberts's amendment to legislative article, 902, 903, 904.
- on substitute to section 12, executive, 930, 1013, 1153.
- on appeal from chair on section 36, legislative, 971.
- on motion to strike out section 14, executive, 1015.

MALONEY, THOMAS (Continued.)

Remarks—

- on motion to amend section 20, executive, 1020, 1030, 1031.
- on motion to amend section 1, labor and arbitration, 1033, 1040, 1052.
- on motion to amend section 5, labor and arbitration, 1058, 1059.
- on motion to amend section 7, labor and arbitration, 1061.
- on motion to amend section 8, labor and arbitration, 1066.
- on voting on executive, 1163.
- on motion to amend section 5, labor, 1174.
- on water rights, 1209, 1217, 1233.
- on motion to amend section 2, education, 1303.
- on motion to amend section 5, judiciary, 1318, 1319.
- on motion to amend section 8, judiciary, 1323.
- on motion to amend section 12, judiciary, 1324.
- on motion to amend section 20, judiciary, 1328.
- on motion to amend section 15, judiciary, 1394, 1396.
- on motion to amend section 1, judiciary, 1406.
- on section 3, corporations, 1468.
- on section 9, corporations, 1468.
- on motion for night sessions, 1477.
- on motion to amend section 9, judiciary, 1508, 1523.
- on motion to amend section 25, judiciary, 1519, 1520.
- on section 11, corporations, 1550, 1554.
- on section 16, corporations, 1561, 1562.
- on section 18, corporations, 1562.
- on section 21, corporations, 1566.
- on section 23, corporations, 1577, 1669.
- on section 25, corporations, 1579, 1675.
- on section 26, corporations, 1584, 1589, 1590.
- on section 28, corporations, 1593.
- on section 36, corporations, 1602.
- on section 37, corporations, 1603.
- on section 38, corporations, 1603.
- on section 1, public lands, 1605, 1689.

MALONEY, THOMAS (Continued.)

Remarks—

- on new section to public lands, 1608, 1609, 1610.
- on salaries, 1611, 1612, 1613.
- on section 3, public buildings, 1618, 1620, 1709.
- on schedule, 1633, 1645, 1646, 1647, 1648, 1737, 1741, 1742, 1743, 1748, 1765.
- on section 2, corporations, 1557, 1656.
- on section 9, corporations, 1658.
- on section 22, corporations, 1667, 1668.
- on corporations, 1681.
- on section 4, public lands, 1702.
- on miscellaneous, 1768, 1779, 1797, 1798, 1801, 1802.

Seconds—

- Thurman's motion on organization, 36.
- Thatcher's motion to correct rule 22, 133.

Withdraws—

- name of Newton Farr as enrolling clerk, 52.
- motion to amend section 1, public lands, 812.

MAUGHAN, WILLIAM H., Member from Wellsville, Cache County.

Appointed—

- on committee on apportionment and boundary, 66.
- on committee on water rights and irrigation, 66.

Offered prayer, 1084.

Presents—

- petition for separate submission of suffrage, 934.

Remarks—

- on motion to strike out section 10, elections and suffrage, 609.
- on voting on section 1, elections and suffrage, 768.
- on section 4, public lands, 1692, 1693, 1695, 1697.

Seconds motion to recommit public lands, 813.

McGURRIN, FRANK E., official stenographer.
elected stenographer, 100.
resolution to release from attendance, 223.
remarks on compensation, 1826.
sworn in as official stenographer, 100.

McCLAIN, REV. JOSEPH, of the Presbyterian Church.
offered prayer, 263.

McNIECE, REV. R. G., of the First Presbyterian Church.
offered prayer, 38, 888.

McFARLAND, ROBERT, Member from West Weber, Weber County.

Appointed—

on committee on elections and suffrage, 66.
on committee on revenue, taxation and public debt, 67.

Excused, 297.

Presents—

proposition for insertion in Constitution on water rights, 272.

Remarks—

on motion to make special order of elections and rights of suffrage, 416.
on voting on section 1, elections and suffrage, 768.

Signed minority report on committee on elections and rights of suffrage, 408.

MILLER, G. P., Member from Monroe, Sevier County.

Appointed—

on committee to name standing committees, 38.
on committee on legislative, 66.
on committee on corporations, 66.
on committee on schedule, future amendments and miscellaneous, 67.

MILLER, G. P. (Continued.)

Presents—

proposition for insertion in Constitution on irrigation, 202.
proposition for insertion in Constitution on public money, 202.
petition of citizens of Sevier County on prohibition, 495.
petition from women of Salina on prohibition, 621.
petition for separate submission of prohibition, 994, 1232.

Remarks—

on proposition on prohibition, 155.
on suffrage, 531, 541.
on motion to recommit elections and suffrage, 761.
on voting on section 1, elections and suffrage, 768.
on appeal from chair on vote on section 36, legislative, 971.
on motion to adopt majority report on prohibition, 1440, 1441, 1442, 1443, 1459, 1476.

Reports as one of minority in favor of prohibition, 1183.

MORRIS, ELIAS, Member from Second Precinct, Salt Lake City.

Appointed—

on committee on legislative, 66.
on committee on education and school lands, 66.
chairman of committee on public buildings and State institutions, 66.
on committee on judiciary, 66.

Presents—

petition on prohibition from citizens of Parowan, 316.
proposition for insertion in Constitution, on location of capital, 201.
petition on prohibition, 457.

Remarks—

on furniture, 71.
on typewriter, 158.
on suffrage, 533, 535.
on motion to postpone action on elections and suffrage, 699.

MORRIS, ELIAS (Continued.)

Remarks—

- on motion to recommit elections and suffrage, 751.
- on Roberts's amendment to legislative article, 918, 919.
- on motion to strike out section 35, legislative, 946, 947.
- on motion to reconsider section 36, legislative, 989.
- on labor, 1171.
- on section 11, taxation and revenue, 1180.
- on motion to amend section 2, education, 1224.
- on motion to amend section 4, taxation and revenue, 1076.
- on motion to adopt majority report on prohibition, 1461.
- on motion to amend section 11, corporations, 1474.
- on mines and mining, 1542.
- on section 23, corporations, 1575.
- on section 3, public buildings, 1622.
- on revision, 1821.

Reports as chairman of committee on public buildings, 108, 1526.

MORITZ, JACOB, Member from First Precinct, Salt Lake City.

Appointed—

- on committee on sites, 38.
- on committee on taxation, revenue and public debt, 67.
- on committee on labor and arbitration, 67.
- on committee on manufactures and commerce, 67.

Moves—

- to secure a telephone, 77.
- to discharge committee on site, 77.
- on seats, 72.

Reports as chairman of committee on site, 59, 71.

Remarks—

- on report of committee on site and furniture, 61.
- on hiring janitor, 69.

MORITZ, JACOB (Continued.)

Remarks—

- on motion to amend section 20, executive, 1024.
- on motion to amend section 1, labor and arbitration, 1040.
- on section 21, corporations, 1567, 1568.
- on motion to limit time in debate, 1588.

MURDOCK, JOHN R., Member from Beaver, Beaver County.

Appointed—

- on committee on apportionment and boundary, 66.
- chairman of committee on water rights and irrigation, 66.

Excused, 704.

Moves—

- for Preston to be sworn, 59.
- to amend section 6, public buildings, 1627, 1716.
- to add four sections to miscellaneous, 1785.

Offers—

- prayer, 1688.
- excuse for Coray, 263.

Presents—

- petition for suffrage to go into Constitution, 889, 934.

Remarks—

- on motion to read rules, 81.
- on motion to adopt report of committee on standing committees, 58.
- on motion to refer back report on credentials, 34.
- on motion to change time of meeting, 88.
- on election of committee clerk, 123, 161.
- on motion to amend section 2, education and school lands, 382.
- on motion to make special order for elections and rights of suffrage, 417.
- on section 1, elections and suffrage, 460, 461, 480, 519.
- on Richards's motion to amend elections and suffrage, 619.

MURDOCK, JOHN R. (Continued.)

Remarks—

- on motion to amend section 22, bill of rights, 638.
- on motion to amend section 3, executive, 662.
- on motion to postpone action on elections and suffrage, 683, 684.
- on motion to recommit elections and suffrage, 729, 730.
- on Lund's motion on apportionment, 863.
- on motion to amend section 13, legislative, 876.
- on Roberts's amendment to legislative article, 906, 928.
- on motion to reconsider section 36, legislative, 982, 983.
- on motion to amend section 20, executive, 1026.
- on motion to amend section 3, public debt, 1132.
- on article on labor, 1164.
- on water rights, 1207, 1209, 1214, 1683, 1685.
- on motion to amend section 5, education, 1271, 1272, 1273.
- on motion to amend section 10, education, 1298, 1299, 1301.
- on motion to strike out section 3, mines and mining, 1418.
- on motion to amend majority report on prohibition, 1435.
- on motion to adopt section 11, corporations, 1473, 1474.
- on schedule, 1645.
- on miscellaneous, 1775, 1795.

Seconds--

- nomination of John Henry Smith, 39.
- motion of Cannon to time discussion on suffrage, 553.
- Thurman's motion on committees, 103.

MURDOCK, JOSEPH R., Member from Charleston, Wasatch County.

Appointed—

- on judiciary committee, 66.
- on committee on apportionment and boundary, 66.

MURDOCK, JOSEPH R. (Continued.)

Moves—

- that nominations close, 159.
- to refer petition on prohibition, 144.
- to strike out section 38, corporations, 1678.

Nominates—

- Miss Snyder of Summit County, 124.

Presents—

- petition on prohibition, 143.
- for insertion in Constitution on prohibition, 157.
- petition for suffrage to go in Constitution, 889.

Remarks—

- on petition on prohibition, 144.
- on report to increase the committee on schedule, future amendments, and miscellaneous, 268.
- on motion to amend section 23, bill of rights, 336.
- on motion to strike out section 10, elections and suffrage, 614.
- on motion to amend section 1, judiciary, 1407.
- on motion to amend section 20, judiciary, 1517.
- on section 38, corporations, 1679.
- on final revision, 1850.

MURDOCK, JAMES D., Member from Park City, Summit County.

Appointed—

- on committee on federal relations, 65.
- on committee on elections and suffrage, 66.
- on committee on revenue, taxation, and public debt, 67.

Presents—

- petition for separate submission of suffrage, 809.

NEBEKER, AQUILA, Member from Laketown, Rich County.

Appointed—

- on committee on site, 36.

NEBEKER, AQUILA (Continued.)

Appointed—

- on committee to name standing committees, 38.
- on committee on apportionment and boundary, 66.
- on judiciary committee, 66.

Presents—

- petition for suffrage to go in Constitution, 1032.

Remarks—

- on nomination of Pratt, 50, 51.
- on report of committee on site, 60, 61, 62.
- on motion to amend section 24, bill of rights, 357.
- on motion to amend section 2, education and school lands, 377.
- on elections and rights of suffrage, 418.
- on motion to amend section 14, elections and suffrage, 800.
- on voting on taxation and revenue, 1181.
- on water rights, 1205, 1206, 1207, 1214.
- on motion to amend section 5, education, 1278, 1279, 1280.
- on motion to amend section 10, education, 1299.
- on voting on education article, 1374.
- on motion to reconsider section 14, elections, 1495.
- on section 38, corporations, 1679.
- on schedule, 1758.

Seconds Hammond's suggestion, 935.

NUTTING, REV. JOHN D., of the Congregational Church.

offered prayer, 769.

PAGE, J. D., Member from Mt. Pleasant, Sanpete County.

Appointed—

- chairman of committee on federal relations, 65.
- on committee on municipal corporations, 66.

PAGE, J. D. (Continued.)

Moves—

- to amend section 20, executive, 1027.
- to strike out section 5, elections and rights of suffrage, 602.
- to amend section 2, elections and suffrage, 770.
- to strike out section 5, elections and suffrage, 778.
- to amend section 20, legislative, 883.
- to amend on revision, 1803.

Presents—

- proposition relating to election for Constitution, 112.
- proposition for insertion in Constitution on judiciary, 203.
- petition for separate submission of suffrage, 769, 976.

Remarks—

- on report of committee on federal relations and ordinance, 218.
- on suffrage, 541, 542, 543, 546.
- on voting on section 1, elections and suffrage, 768.
- on motion to amend section 2, elections and suffrage, 771.
- on motion to amend section 13, legislative, 873.
- on motion to amend section 20, executive, 1027.
- on motion to amend section 3, taxation and revenue, 1115.
- on motion to amend section 20, judiciary, 1388.

Reports as chairman of committee on federal relations, 218.

PARTRIDGE, EDWARD, Member from Provo, Utah County.

Appointed—

- on committee on legislative, 66.
- on committee on labor and arbitration, 67.
- on committee on militia, 67.

Excused, 271, 783.

Moves—

- to reject application for postage, 150.

PARTRIDGE, EDWARD (Continued.)

Moves—

- to amend section 24, bill of rights, 346.
- to amend section 1, labor and arbitration, 1032.

Presents—

- petition from citizens of Provo on prohibition, 345.
- proposition for insertion in Constitution on militia, 163.
- proposition for insertion in Constitution on boundaries, 167.

Remarks—

- on report of committee on expenses, 151, 154.
- on election of committee clerk, 160, 161.
- on motion to amend section 24, bill of rights, 346, 356, 357.
- on suffrage, 573.
- on voting on bill of rights, 652.
- on motion to amend section 1, militia, 819.
- on appeal from chair on vote on section 36, legislative, 969.
- on motion to amend section 1, labor and arbitration, 1046.
- on motion to amend section 12, taxation and revenue, 1112.
- on motion to amend section 4, public debt, 1190.
- on motion to amend section 5, public debt, 1195.
- on motion to strike out section 3, mines and mining, 1416.
- on motion to adopt majority report on prohibition, 1449.
- on voting on schedule, 1767.
- on printing proceedings, 1841.

PETERS, J. D., Member from Brigham City, Box Elder County.

Appointed—

- on committee to name standing committees, 38.
- on committee on executive, 66.

PETERS, J. D. (Continued.)

Appointed—

- on committee on mines and mining, 67.
- on committee on labor and arbitration, 67.

Moves—

- to amend section 5, counties, cities and towns, 400.
- to amend section 14, elections and suffrage, 795.
- to refer section 14, elections and suffrage, 797.
- to amend section 4, apportionment, 824.
- to strike out section 29, legislative, 886.
- to reconsider amendment to section 31, legislative, 887.
- to amend section 1, labor and arbitration, 1032.
- to amend section 12, taxation and revenue, 1113.
- to amend section 5, public debt, 1197 1201.
- to strike out section 2, education, 1220.
- to amend section 3, judiciary, 1314.
- to amend section 1, public lands, 1604.
- to amend section 2, public lands, 1606.
- to amend on revision, 1828.

Offers substitute to section 1, militia, 819.

Presents—

- proposition on rights for insertion in Constitution, 102.
- proposition relating to labor for Constitution, 112.
- proposition for insertion in Constitution on county organization, 166.
- petition of residents of Corinne on prohibition, 495.
- petition for suffrage to go into the Constitution, 934, 976.

Remarks—

- on list of committees, 61.
- on motion to amend section 23, bill of rights, 334.

PETERS, J. D. (Continued.)

Remarks—

- on motion to amend section 14, elections and suffrage, 795, 796, 797.
- on motion to amend section 4, apportionment, 824, 825, 829, 831, 833, 845.
- on motion to amend section 20, legislative, 883.
- on motion to amend section 1, labor and arbitration, 1037.
- on motion to amend section 3, taxation and revenue, 1115.
- on motion to amend section 5, public debt, 1195.
- on water rights, 1202.
- on motion to postpone section 2, education, 1228, 1331, 1332, 1334, 1335, 1336.
- on motion to amend section 5, education, 1255.
- on motion to amend section 8, judiciary, 1322.
- on section 32, corporations, 1599.
- on section 35, corporations, 1601.
- on salaries, 1613.
- on revision, 1833.

PETERSON, MONS, Member from Moab, Grand County.

Appointed—

- on committee on credentials, 12.
- on committee to name standing committees, 38.
- on committee on federal relations, 65.
- on committee on apportionment and boundaries, 66.
- chairman of committee on engrossment and enrollment, 67.

Moves—

- to amend section 4, education, 1336.

Presents—

- proposition for insertion in Constitution on boundaries, 165.
- proposition for insertion in Constitution to provide boundaries, 167.
- petition for separate submission of suffrage, 851.

Withdraws substitute to section 4, education, 1360.

PETERSON, J. C., Member from Fairview, Sanpete County.

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on mines and mining, 67.

Presents petition for suffrage to go in Constitution, 889.

PIERCE, FRANK, Member from First Precinct, Salt Lake City.

Appointed—

- on committee to name standing committees, 38.
- on committee on legislative, 65.
- on committee on judiciary, 66.
- chairman of committee on education, 66.

Calls for ayes and noes on election of president, 39, 40.

Called to chair in committee of the whole, 653.

Moves—

- to defer action on article on education, 273.
- to adopt Roberts' Rules, 39.
- to elect permanent president, 39.
- to elect permanent officers, 47.
- to suspend rules, 49.
- to refer back report of committee on furniture, 61.
- to adjourn, 61, 62.
- to refer Hart's resolution to committee on rules, 63.
- to amend motion to print names, 77.
- to accept report of committee on printing, 109.
- to receive propositions and refer, 110, 111.
- to consider standing rules, 109.
- to fix compensation of officers, 118.
- to amend rules, 126, 129.
- to refer correction of minutes to committee on engrossment, 173.
- to receive and refer reports of committee on boundaries, 192.

PIERCE, FRANK (Continued.)

Moves—

- to refer to committee of the whole, 216.
- to reconsider on education, 273.
- to strike out section 25, bill of rights, 358.
- to take a recess, 732.
- to amend section 10, education, 1291, 1292.
- to amend section 2, education, 1303.
- to amend section 5, education, 1305.
- to strike out section 1, corporations, 1465.
- to adopt report of committee of the whole on mines, 1524.

Presents—

- proposition for insertion in Constitution on education, 158.

Remarks—

- on question of members taking oath, 13.
- on adjournment, 36.
- on election of president, 39.
- on election of officers, 47.
- on report of committee on site, 56.
- on report of committee on standing committees, 57.
- on motion to adjourn, 62, 63.
- on Goodwin's appointment as chairman of judiciary committee, 68.
- on selection of seats, 74.
- on motion to adjourn, 78.
- on official stenographer, 100.
- on Evans's motion to correct minutes, 106.
- on report of committees, 109, 110.
- on fixing time of committee meetings, 119.
- on amending rules, 129, 130.
- on committee announcement, 125.
- on taking report from table, 146, 147.
- on committee clerks, 159, 160.
- on motion to refer correction of minutes, 174.
- on report of committee on boundaries, 191, 192.
- on motion for additional clerk, 195.

PIERCE, FRANK (Continued.)

Remarks—

- on report of committee on education, 216, 217.
- on motion to amend section 10, bill of rights, 274, 275, 277.
- on motion to amend section 23, bill of rights, 328, 329.
- on motion to amend section 24, bill of rights, 340, 341.
- on motion to amend section 25, bill of rights, 359.
- on motion to amend section 2, education and school lands, 368, 369, 374, 383.
- on motion to refer back article on education and school lands, 396.
- on motion to amend section 5, counties, cities and towns, 401.
- on motion to amend section 22, bill of rights, 625.
- on voting on elections and suffrage, 805.
- on motion to adopt section 4, minority report, legislative, 893.
- on Roberts's amendment to legislative article, 921, 922.
- on point of order on chair's announcement of vote, 957.
- on voting on legislative article, 1005.
- on motion to strike out section 5, taxation and revenue, 1093, 1094.
- on point of order on motion to strike out labor, 1168.
- on motion to amend section 2, education, 1219, 1220, 1224.
- on motion to amend section 3, education, 1230, 1336.
- on motion to amend section 4, education, 1231.
- on motion to strike out water rights, 1233, 1234.
- on motion to amend section 5, education, 1255, 1273, 1284, 1289, 1345, 1346, 1347.
- on motion to amend section 7, education, 1289, 1290.
- on motion to amend section 8, education, 1291.

PIERCE, FRANK (Continued.)

Remarks—

- on motion to amend section 10, education, 1292, 1298, 1363.
- on motion to amend section 2, judiciary, 1313.
- on motion to amend section 3, mines and mining, 1430.
- on motion to adopt majority report on prohibition, 1455, 1456.
- on public lands, 1698.

Reports as chairman of committee on standing committees, 56.

Reports as chairman of committee on education, 216, 889, 1182.

Requests excuse for committee on education, 199.

Requests reading of report of committee on boundaries, 191.

PRATT, MILANDO.

- nominated for engrossing and enrolling clerk by A. H. Raleigh, 49, 50.

PRATT, CHARLES R.

- nominated for page by F. J. Kiesel, 55.

PRESTON, WILLIAM B., Member from Third Precinct, Salt Lake City.

Appointed—

- on executive committee, 66.
- on committee on salaries of public officers, 67.

Excused, 345.

Moves—

- to amend section 2, education and school lands, 383.
- to amend section 5, labor, 1169.
- to amend section 5, public debt, 1198.
- to lay invitation to reception on table, 1654.
- to strike out section 2, corporations, 1655.

Offered prayer, 1802.

PRESTON, WILLIAM B. (Continued.)

Remarks—

- on motion to refer correction of minutes, 174.
- on motion to amend section 2, education and school lands, 382, 388.
- on motion to amend section 5, counties, cities, and towns, 404.
- on motion to recommit elections and suffrage, 752.
- on motion to amend section 12, executive, 1011.
- on motion to amend section 3, labor and arbitration, 1054.
- on motion to amend section 3, public debt, 1132.
- on article on labor, 1167, 1170.
- on section 2, taxation and revenue, 1177.
- on section 1, public debt, 1186.
- on motion to amend section 10, education, 1299.
- on motion to amend section 4, education, 1360, 1369.
- on section 28, corporations, 1593.
- on corporations, 1680.
- on invitation to reception, 1654, 1684.
- on elections and right of suffrage, 1722.
- on revision, 1820.

Seated by report of committee on credentials, 37.

Seconds Thurman's motion to amend section 13, legislative, 872.

Took oath as a member, 59.

Withdraws amendment to section 2, education, 389.

RALEIGH, A. H., Member from Third Precinct, Salt Lake City.

Appointed—

- on committee on elections and suffrage, 66.
- on committee on municipal corporations, 66.

Excused from voting on Constitution, 1834, 1835.

RALEIGH, A. H. (Continued.)

Moves—

- to amend section 23, bill of rights, 329.
- to adjourn, 56.
- to amend motion to adjourn, 63.
- to amend, 64.
- to rise and report, 598.
- to amend substitute for section 13, legislative, 874.
- to amend section 9, corporations, 1658.

Nominates Milando Pratt as enrolling clerk, 50.

Opened by prayer, 1526.

Offers the benediction, 1854.

Presents—

- proposition for insertion in the Constitution on prohibition, 155.
- proposition for insertion in the Constitution to regulate liquor habit, 300, 301.
- petition for prohibition from ministers, 889.
- petition for prohibition to be submitted separately, 934, 1232.

Remarks—

- on voting for enrolling clerk, 52.
- on rules, 90.
- on report to increase committee on schedule, future amendments and miscellaneous, 270.
- on motion to amend section 23, bill of rights, 329.
- on motion to amend section 25, bill of rights, 359.
- on suffrage, 500, 580.
- on motion to recommit elections and suffrage, 718, 719.
- on motion to amend section 13, legislative, 869, 872, 877.
- on motion to amend section 20, legislative, 882.
- on motion to strike out section 35, legislative, 947.
- on motion to amend section 1, labor and arbitration, 1041.
- on motion to amend section 7, labor and arbitration, 1065, 1066.

RALEIGH, A. H. (Continued.)

Remarks—

- on motion to amend section 2, taxation and revenue, 1070.
- on motion to amend section 5, education, 1263, 1271.
- on motion to amend section 10, education, 1292.
- on motion to adopt majority report on prohibition, 1450.
- on motion to reconsider section 14, elections, 1486.
- on section 21, corporations, 1564.
- on section 23, corporations, 1573.
- on section 3, public buildings, 1624.
- on schedule, 1645, 1738, 1763.
- on section 9, corporations, 1660.
- on miscellaneous, 1783, 1784.
- on revision, 1831.
- on printing proceedings, 1839, 1841, 1842, 1845.

Seated by report of committee on credentials, 37.

Seconds—

- motion of Goodwin instructing committee on site, 59.
- motion to strike out section 25, bill of rights, 359.

Withdraws second to motion to strike out section 25, bill of rights, 359.

RAWLINS, JOSEPH L., delegate to Congress.

invited to a seat on platform, 367.

REESE, MISS C.

nominated for committee clerk, 159.

RAPP, C. S., Ogden, Weber County.

assistant secretary, 2.

elected minute clerk, 49.

nominated by William Driver, 47, 49.

sworn in as minute clerk, 55.

RICHARDS, F. S., Member from Fourth Precinct, Salt Lake City.

Appointed—

- on committee on legislative, 65.

RICHARDS, F. S. (Continued.)

Appointed—

- on committee on mines and mining, 67.
- on committee on ordinance, 67.

Amends—

- motion to adopt rules, 90.
- motion of Pierce to adopt report, 109.

Excused for the day, 39, 1142.

Moves—

- to suspend rules, 164, 165.
- to adjourn, 12, 215, 1522.
- for informal recess, 12.
- to administer oath, 13.
- to amend report of committee, 109.
- to defer consideration, 110,
- to refer memorial on suffrage to committee, 142.
- to read article on boundary third time by title, 208, 211.
- to suspend rules on article on boundary, 211.
- to amend rules, 213.
- to make report of committee on elections and suffrage special order, 266.
- to amend section 24, bill of rights, 357.
- to postpone action on section 5, counties, cities, and towns, 403.
- to pass section 1, elections and rights of suffrage, 600.
- to amend section 5, elections and suffrage, 618.
- to amend section 6, executive, 663.
- to pass section 1, elections and suffrage, 765.
- the previous question, section 1, elections and suffrage, 765.
- to amend section 22, bill of rights, 623.
- to add minority report to article on legislative, 890.
- to adopt section 2 of minority report on legislative, 890.
- to adopt section 3 of minority report on legislative, 890.
- to adopt section 4 of minority report on legislative, 890.
- to amend Roberts's amendment to legislative article, 928.

RICHARDS, F. S. (Continued.)

Moves—

- a substitute for section 36, legislative, 951.
- to correct section 24, judiciary, 1392.
- to amend new section to judiciary, 1392.
- to amend section 1, judiciary, 1398.
- to amend section 8, judiciary, 1506.
- to amend section 9, judiciary, 1506, 1513.
- to amend section 25, judiciary, 1519.
- to amend section 4, public buildings, 1626.
- to amend section 26, judiciary, 1521.
- to amend sections 13 and 14, corporations, 1555.
- to strike out section 16, corporations, 1560.
- to strike out section 20, corporations, 1563.
- to amend section 21, corporations, 1564.
- to amend section 4, public buildings, 1626.
- to amend section 4, schedule, 1629.
- to amend section 5, schedule, 1631.
- a substitute to section 6, schedule, 1631.
- to amend section 9, schedule, 1633.
- to strike out subheading, corporations, 1667.
- to amend ordinance, 1720.
- to amend section 9, elections and suffrage, 1722, 1794.
- to adopt section 3, schedule, 1736.
- to amend section 4, schedule, 1749.
- a substitute for section 7, schedule, 1750.
- to amend section 9, schedule, 1750, 1764.
- to amend section 13, schedule, 1765.
- to refer communication from engrossing committee to committee on rules, 1767.
- to amend section 5, miscellaneous, 1782.
- to amend on revision, 1793, 1802, 1803, 1817, 1828, 1831.
- to amend miscellaneous, 1800.

RICHARDS, F. S. (Continued.)

Moves—

- to distribute funds, 1835.
- to amend on printing proceedings, 1845.
- to amend motion for vote of thanks, 1849.
- to adopt the Constitution as a whole, 1850.
- a resolution to deliver Constitution to secretary of the Territory, 1852.
- on delivery of Constitution, 1852.

Presents—

- communication from Sutherland, 1683.
- memorial from Woman's Suffrage Association of Utah, 197.

Remarks—

- on motion to adjourn, 12.
- on question of selecting seats, 73, 74.
- on motion to adopt rules, 89.
- on motion to adopt rules and amendment, 90.
- on resolution for bids for stationery, 118.
- on fixing compensation of officers, 118.
- on calling roll, 142.
- on motion to refer memorial, 142, 144.
- on motion to read and refer, 155, 165.
- on petition of ladies of Weber County, 157.
- on request to read memorial on suffrage, 162.
- on motion to suspend rules and read by title, 165.
- on motion to adjourn to a time set, 167, 168, 169, 170.
- on motion to refer correction of minutes, 174, 175.
- on resolution to refer legislative apportionment, 176, 177.
- on resolution on senators and representatives, 182, 184.
- on motion lay article on boundary on the table, 206, 208.
- on article on boundary, 208.
- on order of business, 208, 209, 210, 211.
- on motion to amend rules, 213, 215.

RICHARDS, F. S. (Continued.)

Remarks—

- on motion to make special order report of committee on elections and suffrage, 266.
- on report to increase committee on schedule, future amendments, and miscellaneous, 271.
- on order of business, 272.
- on motion to amend section 10, bill of rights, 277, 278.
- on proposition to tax professional men, 300.
- on motion to amend section 23, bill of rights, 328, 331, 332, 338.
- on motion to amend section 24, bill of rights, 344, 356, 357, 358.
- on motion to amend section 25, bill of rights, 360.
- on motion to amend section 26, bill of rights, 361.
- on motion to strike out section 29, bill of rights, 362.
- on article on bill of rights, 362, 1718.
- on motion to amend section 2, education and school land, 384, 387.
- on motion to amend section 8, counties, cities, and towns, 398.
- on motion to amend section 5, counties, cities, and towns, 401, 403, 404.
- on motion to take up bill of rights for third reading, 406.
- on motion to print minority report on suffrage, 411, 415.
- on motion to amend rules, 419.
- on time allowed to Roberts on suffrage question, 420.
- on suffrage, 437, 547, 548, 549, 567, 598, 599, 601.
- on motion to strike out section 10, elections and suffrage, 605, 606.
- on motion to amend section 14, elections and suffrage, 616, 1490, 1494, 1495.
- on motion to amend section 5, elections and suffrage, 618, 620.
- on motion to amend section 22, bill of rights, 623, 624, 626, 627, 630, 635.
- on motion to amend section 3, executive, 662.

RICHARDS, F. S. (Continued.)

Remarks—

- on motion to amend section 6, executive, 664, 665.
- on motion to go into committee of the whole, 669.
- on motion to amend section 6, municipal corporations, 670.
- on motion to amend section 3, amendments, 675, 678.
- on motion to postpone action on elections and suffrage, 686, 689, 690, 691, 694, 704.
- on Varian's appeal from chair on a point of order, 709.
- on Wells's motion to amend section 1, elections and suffrage, 710.
- on report of committee on accounts and expenses, 712.
- on motion to recommit elections and suffrage, 722, 735, 736, 753, 755.
- on motion to amend section 4, apportionment, 858.
- on voting on apportionment, 864.
- on motion to strike out section 12, legislative, 869.
- on motion to amend section 18, legislative, 879.
- on motion to amend section 19, legislative, 880.
- on motion to amend section 26, legislative, 884.
- on motion to amend section 27, legislative, 885.
- on motion to strike out section 29, legislative, 886.
- on report of minority on legislative, 889, 890.
- on motion to adopt sections of minority report on legislative, 890, 891, 892, 893, 894.
- on Roberts's amendment to legislative article, 912, 913, 914, 928.
- on motion to amend section 31, legislative, 229, 928.
- on section 35, legislative, 938, 941, 943, 944, 945, 947, 948, 949.
- on substitute to section 36, legislative, 951, 952.

RICHARDS, F. S. (Continued.)

Remarks—

- on appeal from decision of chair on section 36, legislative, 958, 959.
- on motion to reconsider section 36, legislative, 993.
- on motion to amend section 5, public debt, 1197.
- on motion to adopt section 2, water rights, 1217.
- on motion to strike out water rights, 1218.
- on motion to amend section 2, education, 1220, 1222, 1223, 1225, 1226, 1227, 1228.
- on motion to amend section 5, education, 1262, 1271, 1368.
- on motion to amend section 20, judiciary, 1329.
- on voting on substitute to section 4, education, 1372.
- on motion to add new section to judiciary, 1397.
- on motion to amend section 1, judiciary, 1397, 1400, 1402, 1403, 1404, 1405, 1406, 1407, 1412.
- on motion to amend section 2, judiciary, 1500.
- on reconsideration of section 9, judiciary, 1521, 1522.
- on voting on judiciary, 1524.
- on mines and mining, 1525, 1526.
- on section 11, corporations, 1551, 1552, 1554, 1662.
- on section 14, corporations, 1556, 1558.
- on section 16, corporations, 1561.
- on section 18, corporations, 1562.
- on section 21, corporations, 1565.
- on section 29, corporations, 1595, 1596, 1597.
- on section 34, corporations, 1600.
- on section 35, corporations, 1601.
- on section 36, corporations, 1601.
- on section 3, public building, 1618, 1619.
- on section 4, public buildings, 1627.
- on section 4, schedule, 1630.
- on section 6, schedule, 1632.
- on section 9, schedule, 1633, 1634, 1635, 1636, 1637, 1639, 1640, 1647, 1648.

RICHARDS, F. S. (Continued.)

Remarks—

- on section 2, corporations, 1654, 1655.
- on section 9, corporations, 1658.
- on section 11, corporations, 1662.
- on section 22, corporations, 1667, 1668.
- on invitation to reception, 1685.
- on public lands, 1689.
- on ordinance, 1721.
- on schedule, 1737, 1751, 1752, 1753, 1754, 1756, 1760, 1762, 1766, 1793, 1794.
- on miscellaneous, 1773, 1780, 1781, 1783, 1784.
- on legislative, 1787, 1788, 1789.
- on revision, 1790, 1792, 1804, 1806, 1815, 1816, 1819, 1822, 1829, 1830, 1831, 1832, 1833, 1849, 1850.
- on printing Constitution, 1825.
- on printing proceedings, 1846.
- on final proceedings, 1853.
- Seconds Eldredge's amendment to section 4, bill of rights, 363.
- Withdraws motion for previous question, 766.

RICH, REV. GEORGE W., of Park City.
offered prayer, 1181.

RITCHIE, REV., of the Congregational Church.
offered prayer, 809.

RICKS, JOEL, Member from Salina, Sevier County.

Appointed—

- on committee on preamble, 65.
- on committee on apportionment and boundary, 66.
- chairman of committee on schedule, future amendments, and miscellaneous, 67.
- Amends motion to go into committee of the whole, 273, 278.
- Appeals from decision of chair, 896.
- Called to the chair in committee of the whole, 1288.

RICKS, JOEL (Continued.)

Moves—

- that Goodwin remain as chairman of the committee on judiciary, 68.
- to elect officers, 49.
- to elect pages by rising vote, 55.
- a resolution for maps, 104.
- to adjourn, 65, 161, 167, 188.
- to suspend rules, 102.
- to refer petition on prohibition, 144.
- to read separately and act on report, 145.
- to lay part of report on table, 145.
- to refer back report to committee, 148.
- to indefinitely postpone election of committee clerk, 173.
- to take up bill of rights in committee of the whole, 228.
- to amend rule 20, 273.
- to amend motion to go into committee of the whole, 273.
- to amend section 25, bill of rights, 358.
- to amend section 5, counties, cities and towns, 400.
- to rise and report, 405, 429, 600, 1231.
- to go into the committee of the whole, 406, 889, 1374.
- to amend section 1, amendments, 406.
- to amend section 3, amendments, 406.
- to clear the house, 598.
- the previous question, 638, 700, 860, 1703.
- to amend section 3, executive, 663.
- to strike out section 8, executive, 666.
- to strike out section 14, elections and suffrage, 785.
- to amend section 1, militia, 817.
- to amend section 1, apportionment, 823.
- to amend section 20, legislative, 881.
- to amend section 20, legislative, 882, 883.
- for recess, 888.
- to adopt article on legislative, 890.
- to amend section 20, executive, 1018, 1023.
- that all petitions on suffrage be handed to clerk and not read, 1182.

RICKS, JOEL (Continued.)

Moves—

- to amend section 2, education, 1228.
- to amend section 4, education, 1231.
- to amend section 10, education, 1362.
- to adopt majority report on prohibition, 1431.
- to strike out section 9, corporations, 1468.
- on reports, 1479.
- to strike out section 3, mines and mining, 1525, 1528.
- to accept invitation of Los Angeles railway, 1526.
- to amend motion to limit time on debate, 1588.
- to report article on salaries, 1614.
- to amend section 6, public buildings, 1627, 1628, 1629.
- to amend section 9, schedule, 1633.
- to amend section 10, schedule, 1653.
- to reconsider corporations, 1704.

Presents—

- petition for separate submission of suffrage, 809, 1143.
- communication from J. G. Sutherland and others, 1683.

Remarks—

- on motion to elect permanent officers, 44, 49.
- on Goodwin's selection as chairman of judiciary committee, 67.
- on election of janitor, 70.
- on hiring an official stenographer, 93.
- on adoption of rules, 127, 133, 140.
- on taking photographs, 135.
- on report of committee on expenses, 148, 149, 153, 154.
- on motion to adjourn, 167, 168, 169, 170, 172.
- on electing of committee clerk, 173.
- on motion to restrict time to submit propositions, 219.
- on report to increase committee on schedule, future amendments and miscellaneous, 268.
- on motion to amend section 25, bill of rights, 359.
- on suffrage, 537, 601, 617.

RICKS, JOEL (Continued.)

Remarks—

- on point of order on Driver, 621.
- on motion to amend section 2, executive, 660.
- on motion to recommit elections and suffrage, 758, 759.
- on Eldredge's motion to go into committee of the whole, 770.
- on motion to amend section 14, elections and suffrage, 785, 1494.
- on passage of elections and suffrage, 800.
- on motion to amend section 1, militia, 818.
- on motion to amend section 4, apportionment, 825, 826.
- on motion to amend section 24, legislative, 883.
- on motion to amend section 20, executive, 1024.
- on motion to amend section 4, public debt, 1193.
- on motion to amend section 4, education, 1237, 1265.
- on motion to amend section 5, education, 1239, 1249, 1251, 1252.
- on motion to amend section 10, education, 1363.
- on motion for night sessions, 1479.
- on motion to amend section 2, judiciary, 1501.
- on motion to amend section 8, judiciary, 1504.
- on mines and mining, 1527, 1528, 1530, 1542.
- on motion to amend section 14, corporations, 1557, 1665.
- on section 15, corporations, 1560.
- on section 23, corporations, 1572.
- on resolution for final reading of articles, 1586, 1587.
- on section 28, corporations, 1594.
- on section 2, public lands, 1606.
- on section 4, schedule, 1630.
- on section 7, schedule, 1632.
- on section 11, schedule, 1653.
- on new section for schedule, 1653, 1654.
- on section 10, corporations, 1661.
- on section 22, corporations, 1667.

RICKS, JOEL (Continued.)

Remarks—

- on point of order on appeal from chair, 1677.
- on voting on corporations, 1682.
- on water rights, 1685.

Reports as chairman of committee on schedule, miscellaneous and future amendments, 225, 243, 298, 1182, 1522.

Seconds—

- motion of Goodwin instructing committee on site, 59.
- Hart's motion on time of meeting, 62.
- motion to adjourn, 189.

Withdraws—

- motion to elect pages by rising vote, 55.
- motion to adjourn, 188.
- motion to amend section 20, executive, 1018.

ROBERTS, B. H., Member from Centerville, Davis County.

Appointed—

- on committee on credentials, 13.
- on committee to name standing committees, 38.
- on committee to secure stenographer, 55.
- on legislative committee, 65.
- on committee on public lands, 66.
- on committee on schedule, future amendments and miscellaneous, 67.

Moves—

- to amend in relation to stenographer, 45.
- to appoint committee of five on stenographer, 53.
- on drawers for tables, 116.
- to correct rule 8, 128.
- to amend rules, 130.
- to amend Thatcher's amendment to rule 22, 133.
- to postpone consideration of section 10, bill of rights, 262.
- a substitute for section 26, bill of rights, 360.

ROBERTS, B. H. (Continued.)

Moves—

- an amendment for evening session, 491.
- to amend section 6, municipal corporations, 669.
- to amend section 4, bill of rights, 230, 238.
- to strike out section 7, executive, 665.
- on addition to article on legislative, 894.
- to amend section 3, public debt, 1134.
- to amend section 6, executive, 1151.
- to strike out labor, 1163.
- to amend section 4, education, 1237, 1308.
- a substitute to section 11, corporations, 1469.
- to strike out section 14, corporations, 1557.
- a resolution relating to final reading and engrossing, 1585.
- to amend substitute to section 3, public buildings, 1622.
- to reconsider public buildings, 1718.
- for Whitney to read articles, 1718.
- a reconsideration of vote on public buildings, 1723.
- to amend section 10, schedule, 1765.
- to strike out section 1, miscellaneous, 1798.
- to rise and report, 1796.

Presents—

- petition for separate submission of suffrage, 711, 809, 851, 888, 993, 1032, 1142.
- petition from labor unions of Salt Lake, 297.
- resolution on conforming to the Enabling Act, 63.
- protests against call for previous question, 638.

Remarks—

- on motion to refer back report on credentials, 30, 31.
- on amendment to motion to elect permanent officers, 43, 45, 46, 48, 49.
- on election of enrollment clerk, 52.
- on electing a stenographer, 53.

ROBERTS, B. H. (Continued.)

Remarks—

- on adopting Constitution of the United States, 63.
- Relating to resolution conforming to Enabling Act, 64, 65.
- on report of committee on site and in favor of janitor, 69, 70, 71.
- on selecting seats, 74.
- on resolution to print Enabling Act, 77.
- on motion to read rules, 81.
- on official stenographer, 94, 96, 97.
- on correction of minutes, 106.
- on motion to receive and refer propositions, 110, 111.
- on motion to procure drawers for tables, 116, 117.
- on fixing times of meeting of committees, 119.
- on adopting rules, 130, 134, 135.
- on motion to adjourn, 168, 169, 171.
- on motion to refer correction of minutes, 173, 174.
- on resolution on senators and representatives, 180, 181.
- on preamble and bill of rights, 213.
- on amendment to section 4, bill of rights, 230, 231, 237, 239, 241, 264.
- on motion to amend section 5, bill of rights, 256.
- on motion to postpone consideration of section 10, bill of rights, 262.
- on motion to set a time for committee on elections and suffrage to report, 264, 267.
- on report to increase the committee on schedule, future amendments and miscellaneous, 268, 269.
- on motion to amend section 10, bill of rights, 294, 295, 296.
- on motion to refer proposition on liquor habit, 301.
- on motion to set time for report on suffrage, 317.
- on motion to amend section 18, bill of rights, 323.
- on motion to amend section 23, bill of rights, 326.

ROBERTS, B. H. (Continued.)

Remarks—

- on motion to amend section 24, bill of rights, 355, 358.
- on motion to amend or strike out section 25, bill of rights, 359.
- on motion to amend section 26, bill of rights, 360, 361.
- on motion to amend section 2, education and school lands, 374, 375, 376, 381.
- on motion to amend section 5, counties, cities and towns, 402.
- on motion to print minority report on suffrage, 408, 409, 410, 412, 416.
- on motion to amend section 1, elections and rights of suffrage, 420, 421.
- remarks on suffrage, 421—428, 455, 459, 460, 461, 470, 474, 505, 515, 517, 519, 520, 524, 539, 542, 543, 563, 564, 577, 582, 594, 595, 598.
- on motion to refer section 10, bill of rights, 494.
- on motion to refer or amend section 22, bill of rights, 638, 648.
- on voting on bill of rights, 652.
- on motion to amend section 1, executive, 657.
- on motion to strike out section 7, executive, 665.
- on motion to amend section 6, municipal corporations, 670.
- on motion to postpone action on elections and suffrage, 686, 690, 691.
- on Wells's motion to amend section 1, elections and suffrage, 709, 710.
- on motion to recommit elections and suffrage, 719, 720, 721, 722, 724, 736, 742, 750, 753, 754, 755, 758, 759.
- on motion to pass section 1, elections and suffrage, 766.
- on motion to amend section 3, elections and suffrage, 776.
- on motion to amend section 14, elections and suffrage, 784, 787.
- on voting on elections and suffrage, 803.
- on motion to amend ordinance, 806.

ROBERTS, B. H. (Continued.)

Remarks—

- on motion to recommit public lands, 813, 814.
- on motion to amend section 1, militia, 816.
- on motion to amend section 4, apportionment, 836, 837, 844, 856.
- on Low presenting an unsigned petition, 851, 852.
- on motion to strike out section 11, legislative, 867.
- on motion to amend section 13, legislative, 877.
- on motion to amend section 20, legislative, 883.
- on motion to amend legislative article, 894, 896, 910, 923, 925, 926, 928.
- on motion to adopt substitute for section 30, legislative, 951.
- on appeal from the chair on adopting section 36, legislative, 960, 964, 967, 969.
- on motion to reconsider section 36, legislative, 987, 989, 990, 991.
- on motion to amend section 12, executive, 1013.
- on motion to strike out section 14, executive, 1016.
- on motion to amend section 20, executive, 1018, 1022, 1023, 1024, 1027, 1028.
- on motion to amend section 1, labor and arbitration, 1048.
- on motion to amend section 1, public debt, 1116, 1117, 1121, 1185, 1186, 1199, 1200.
- on motion to amend section 3, public debt, 1125, 1126, 1134, 1187.
- on motion to reconsider section 1, suffrage, 1145, 1147, 1148, 1149, 1150.
- on motion to strike out article on labor, 1169, 1175.
- on motion to amend section 4, public debt, 1189.
- on motion to amend section 2, education, 1227.
- on motion to amend section 4, education, 1247.
- on motion to amend section 5, education, 1265, 1267, 1268, 1286, 1309, 1363, 1370, 1371.

ROBERTS, B. H. (Continued.)

Remarks—

- on motion to amend section 5, judiciary, 1319, 1502.
- on motion to amend section 12, judiciary, 1325.
- on motion to amend section 20, judiciary, 1326, 1327, 1383, 1391.
- on motion to amend section 3, mines and mining, 1417, 1423, 1424, 1531, 1536, 1537, 1538, 1539, 1542.
- on motion to adopt majority report on prohibition, 1431, 1434, 1443, 1458, 1459, 1460.
- on substitute to section 11, corporations, 1470, 1475, 1476, 1552, 1554.
- on section 16, corporations, 1561.
- on section 21, corporations, 1566.
- on section 23, corporations, 1570.
- on resolution on reading and engrossing, 1585, 1586, 1587.
- on section 37, corporations, 1602.
- on section 1, public lands, 1604, 1686.
- on salaries, 1612.
- on section 3, public buildings, 1621, 1625.
- on schedule, 1629, 1643, 1646, 1652, 1744, 1755, 1756, 1762, 1763.
- on section 25, corporations, 1673, 1674, 1677.
- on section 38, corporations, 1678, 1679.
- on corporations, 1682, 1683.
- on invitation to reception, 1684.
- on section 6, public buildings, 1716, 1724, 1725, 1727, 1728, 1732.
- on section 20 and 21, bill of rights, 1719, 1720.
- on miscellaneous, 1767, 1771, 1796, 1799.
- on revision, 1790, 1791, 1793, 1795, 1833, 1850.
- on engrossing, 1825, 1827.
- on voting to adopt Constitution, 1835.
- on motion in relation to ornaments in hall, 1849.
- Requested to conduct president to chair, 40.
- Requests withdrawal of motion to adjourn, 62.

ROBERTS, B. H. (Continued.)

Seconds—

motion relating to permanent organization, 37.

motion relating to stenographer, 48.

motion of Evans relating to indebtedness, 173.

Evans's motion to reconsider, 204.

motion of Evans on Coray, 220.

the amendment to section 10, elections and suffrage, 616.

Eichnor's amendment to section 1, elections and suffrage, 705.

Withdraws motion to strike out section 7, executive, 666.

Withdraws amendmennt to section 3, public debt, 1134.

ROBERTSON, JASPER, Member from Orangeville, Emery County.

Appointed—

on committee on apportionment and boundary, 66.

on committee on militia, 67.

Remarks—

on public lands, 1700.

Took oath as member, 59.

ROBINSON, JOSEPH E., Member from Kanab, Kane County.

Appointed—

on committee to name standing committees, 38.

on committee on elections and suffrage, 66.

on committee on apportionment and boundaries, 66.

on committee on schedule, future amendments and miscellaneous, 67.

Moves—

to adjourn, 36, 37.

to amend section 3, amendments, 674.

to amend section 3, taxation and revenue, 1177.

Presents—

petition in favor of suffrage, 1585.

ROBINSON, JOSEPH E. (Continued.)

Remarks—

on motion to adjourn, 36, 37.

on mileage, 78.

on suffrage, 455.

on motion to strike out section 10, elections and suffrage, 609.

on motion to amend section 5, elections and suffrage, 620.

on motion to recommit elections and suffrage, 718, 731.

on motion to amend section 2, judiciary, 1497.

on section 23, corporations, 1574.

on revision, 1788, 1812.

Reports as minority in favor of prohibition, 1183.

Seconds motion of Ivins to lay boundaries on table, 205.

ROBISON, WILLIS E., Member from Loa, Piute County.

Appointed—

on committee to name standing committees, 38.

on committee on apportionment and boundaries, 66.

on committee on water rights and irrigation, 66.

Presents—

proposition for insertion in Constitution, on forestry, 192.

proposition for insertion in Constitution, on public debt, 218.

petition for suffrage to go in Constitution, 994.

Remarks—

on suffrage, 575.

on motion to amend section 10, education, 1301.

on section 2, judiciary, 1497.

RYAN, GEORGE, Member from Eureka, Juab County.

Appointed—

on committee to name standing committees, 38.

RYAN, GEORGE (Continued.)

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on mines and mining, 67.
- chairman on committee on militia, 67.

Moves—

- to refer propositions, 155.
- to amend section 2, elections and suffrage, 601.
- to amend section 2, elections and suffrage, 771.
- to amend section 8, elections and suffrage, 778.
- to amend section 5, labor, 1169.
- to strike out section 11, corporations, 1554.
- to amend section 23, corporations, 1570.
- a substitute for section 14, corporations, 1662.
- to amend on revision, 1823, 1824.

Presents—

- proposition for insertion in Constitution, on salaries, 155.
- proposition for insertion in Constitution, on exemptions, 155.
- proposition for insertion in Constitution, on corporations, 155.
- petitions for separate submission of suffrage, 769, 809.

Remarks—

- on proposition for insertion in Constitution, 155.
- on motion to adjourn, 172.
- on motion to amend section 11, bill of rights, 306.
- on motion to amend section 25, bill of rights, 360.
- on motion to amend section 2, elections and suffrage, 601.
- on voting on section 1, elections and suffrage, 768.
- on motion to amend section 2, elections and suffrage, 772, 773.

RYAN, GEORGE (Continued.)

Remarks—

- on motion to amend section 8, elections and suffrage, 778, 779.
- on motion to amend section 1, militia, 817, 818.
- on article on militia, 865.
- on motion to amend section 1, labor and arbitration, 1047, 1048.
- on motion to amend section 1, public debt, 1117.
- on article on labor, 1164, 1172.
- on motion to amend section 3, mines and mining, 1423, 1425, 1529.
- on section 11, corporations, 1554, 1555.
- on section 14, corporations, 1557.
- on section 23, corporations, 1575, 1578.
- on section 25, corporations, 1581.
- on section 2, corporations, 1657.
- on section 9, corporations, 1658.
- on revision, 1828.

Reports as chairman of committee on militia, 457.

Yields his time to Roberts, 421.

SCOTT, J. N., Salt Lake City.
janitor, 2.

SHARP, W. G., Member from Castle Gate, Emery County.

Appointed—

- on executive committee, 66.
- on committee on mines and mining, 67.

Excused to attend session of committee on suffrage, 162.
excused, 297.

Moves—

- to amend section 7, labor and arbitration, 1066.
- to amend section 11, taxation and revenue, 1114.
- to amend section 3, corporations, 1468.

Presents—

- petition for separate submission of suffrage, 851, 1143.

SHARP, W. G. (Continued.)

Remarks—

- on motion to recommit elections and suffrage, 720.
- on motion to amend section 4, taxation and revenue, 1076, 1079, 1080.
- on motion to amend section 11, taxation and revenue, 1114.
- on mines and mining, 1525.

SHURTLIFF, H. T., Member from Miller, Salt Lake County.

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on water rights and irrigation, 66.

Moves—

- to postpone action on apportionment of senators and representatives, 186.

Presents—

- proposition for insertion in Constitution on duties of county officers, 202.

SHIPP, ELDER M. B., of the Church of Jesus Christ of Latter-day Saints. offered prayer, 345.

SMITH, JOHN HENRY, Member from Third Precinct, Salt Lake City.
president of Convention, 2.

Appoints—

- Eichnor and Thurman to escort Christensen to secretary's desk, 47.
- committee on stenographer, 55.

Chairman of committee on rules, 61, 65.
Elected president of Convention, 40.

Moves—

- to recommit labor and arbitration, 1044.
- to amend section 13, legislative, 869.
- to pass section 26, bill of rights, 360.
- to amend section 15, bill of rights, 320.
- to adopt article on ordinance, 807.
- to strike out section 5, labor and arbitration, 1056.

SMITH, JOHN HENRY (Continued.)

Moves—

- to strike out labor and arbitration article, 1069.

Nominated for president by Squires, 39.
Offers excuse for Thatcher, 59.

Presents—

- lists of standing committees, 65.

Presented with portraits of members, 810.

Remarks—

- on assuming the chair as president of the Convention, 40, 41, 42.
- on accepting gavel, 43.
- relating to committees, 61.
- on motion to amend section 10, bill of rights, 289.
- on substitute for section 15, bill of rights, 320.
- on motion to amend section 24, bill of rights, 344.
- on motion to amend section 25, bill of rights, 368.
- on motion to amend section 2, education and school lands, 386.
- on motion to refer back article on education and school lands, 395.
- on suffrage, 564.
- on motion to strike out section 10, elections and suffrage, 606.
- on Richards's motion to amend section 5, elections and suffrage, 620.
- on motion to amend section 22, bill of rights, 631.
- on being presented with portraits, 810.
- on motion to strike out section 11, legislative, 868.
- on motion to amend section 13, legislative, 870, 876.
- on motion to amend section 19, legislative, 880.
- on motion to amend section 12, executive, 1010.
- on motion to amend section 20, executive, 1025, 1027, 1028, 1030.
- on motion to amend section 1, labor and arbitration, 1041.

SMITH, JOHN HENRY (Continued.)

Remarks—

- on motion to strike out section 5, labor and arbitration, 1059.
- on motion to strike out section 7, labor and arbitration, 1064, 1065.
- on motion to amend labor and arbitration, 1068.
- on motion to amend section 12, taxation and revenue, 1113.
- on motion to amend section 1, public debt, 1116.
- on motion to amend section 3, public debt, 1129.
- on motion to amend section 5, public debt, 1139.
- on motion to amend section 2, education, 1222.
- on motion to amend section 4, education, 1310.
- on motion to amend section 12, education, 1312.
- on motion to amend section 5, judiciary, 1316.
- on motion to amend section 20, judiciary, 1328.
- on motion to add section to judiciary, 1393.
- on motion to amend section 3, mines and mining, 1428, 1429.
- on motion to strike out section 9, corporations, 1468.
- on motion to strike out section 16, corporations, 1561.
- on section 21, corporations, 1568.
- on final adjournment, 1853.

SMITH, JOSEPH A., Providence, Cache County.

- enrolling and engrossing clerk, 2.
- elected enrolling and engrossing clerk, 50, 51, 52.
- nominated for enrolling and engrossing clerk by Alma Eldredge, 50.
- remarks on engrossing, 1827.
- sworn in as clerk, 65.

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SNOW, EDWARD H., Member from St. George, Washington County.

Appointed—

- on committee to name standing committees, 38.
- on legislative committee, 66.
- on committee on apportionment and boundary, 66.
- on committee on education and school lands, 66.
- on committee on corporations, 66.

Moves—

- to amend amendment and accept report, 69.
- to amend section 4, bill of rights, 244.
- to accept report of committee on site, 69.
- to adopt resolution on senators and representatives, 177.
- to amend section 2, bill of rights, 230.
- to amend section 4, bill of rights, 244.
- to amend section 3, amendments, 678.
- to strike out section 5, legislative, 867.
- for Varian to close debate on reconsideration, 994.
- to have sergeant-at-arms take care of Squires, 1055.
- to amend section 20, executive, 1153.
- to amend section 4, public debt, 1188.
- to adopt minority report on water rights, 1202.
- to amend section 1, water rights, 1206.
- to strike out section 4, education, 1231.
- the previous question, 1708, 1800.
- to suspend rules and amend, 1735.
- to amend on revision, 1818, 1820.
- a resolution for committee on engrossment, 1819, 1823.

Presents—

- petition for separate submission of suffrage, 1084.
- proposition to go into the Constitution, 103.
- proposition for insertion in Constitution on apportionment, 167.
- resolution on apportionment of senators and representatives, 177.

SNOW, EDWARD H. (Continued.)

Remarks—

- on report of committee on standing committees, 57.
- on motion to adopt report of committee on site, 70.
- on motion to refer article on apportionment to legislative committee, 167.
- on resolution on senators and representatives, 178, 182.
- on motion to amend section 4, bill of rights, 244.
- on motion to amend section 23, bill of rights, 235.
- on suffrage, 553, 1794.
- on motion to recommit elections and suffrage, 759, 760.
- on motion to amend section 4, apportionment, 856.
- on motion to amend section 20, executive, 1022, 1153, 1154, 1155, 156.
- on motion to strike out section 5, taxation and revenue, 1099, 1106.
- on motion to strike out section 8, taxation and revenue, 1109.
- on motion to amend section 5, public debt, 1137, 1138.
- on article on labor, 1166.
- on motion to amend section 4, public debt, 1188.
- on water rights, 1203, 1204, 1209, 1211.
- on motion to amend section 2, education, 1220.
- on motion to amend section 5, education, 1264, 1265.
- on motion to amend section 1, judiciary, 1405.
- on motion to amend section 11, corporations, 1473, 1547.
- on voting on judiciary, 1524.
- on mines and mining, 1528, 1529, 1538.
- on section 20, corporations, 1563.
- on section 1, public lands, 1605, 1686.
- on point of order on section 25, corporations, 1677.
- on section 38, corporations, 1679.
- on a point of order, 1718, 1734.
- on miscellaneous, 1769, 1783, 1785, 1786, 1796.

SNOW, EDWARD H. (Continued.)

Remarks—

- on revision, 1788, 1807, 1809, 1812.
- on printing Constitution, 1825.
- on engrossing the Constitution, 1826, 1827.
- on motion to reconsider section 2, schedule, 1794.
- Withdraws motion on report on site, 70.
- Yields his time to Roberts, 895.

SMITH, GRANT H.

- signs invitation to ball and reception, 1827.

SPENCER, H. H., Member from Ogden, Weber County.

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on salaries of public officers, 67.

Excused by request of Evans, 79.

Excused, 212, 307.

Moves—

- to adjourn, 757.
- to amend section 1, public debt, 1119, 1120.

Remarks—

- on voting on section 1, elections and suffrage, 768.
- on motion to amend section 1, public debt, 1119.
- on motion to amend section 5, public debt, 1135, 1138, 1139.

SQUIRES, GEORGE B., Member from Salt Lake County.

Amends resolution to call Convention to order, 9.

Appointed—

- on committee on credentials, 13.
- on committee on legislative, 65.
- on committee on revenue, taxation and public debt, 66.

SQUIRES, GEORGE B. (Continued.)

Appointed—

on committee on mines and mining, 67.

Asks privilege of the floor for Westfield and Wenger,

Called—

to the chair during temporary absence of president, 125.

to be chairman of committee of the whole, 228, 244, 274, 304, 889.

Calls—

for ayes and noes on motion to report elections and suffrage, 318.

for ayes and noes on Eldredge's motion to postpone, 704.

Moves—

that Charles Crane call Convention to order, 9.

that committee clerks be typewriters, 46.

to suspend rules and elect pages by acclamation, 55.

that officers elected be sworn, 55.

to use furniture and room, 71.

to select seats, 74.

to refer Hart's motion to committee on rules, 75.

on name of committee, 109.

relating to salaries, 148, 149.

on furniture and committee rooms, 161.

to refer article on boundaries to legislative committee, 167.

to refer correction of minutes, 174.

to refer report on boundaries to committee on printing, 191.

to receive and file report of committee on expenses, 191.

to go into committee of the whole, 203, 668, 1793.

to adopt article on boundary, 206.

to rise and report from committee of the whole, 208.

to amend rule 21, 212.

to receive and file letter by Thatcher, 214.

SQUIRES, GEORGE B. (Continued.)

Moves—

to restrict time to present propositions, 218.

to adjourn, 222, 535, 1584, 1825.

to refer report of committee to committee on rules, 225.

to amend resolution on report on education, 228.

to amend motion to go into committee of the whole, 228.

to go into committee of the whole, 244, 363, 429, 805.

to meet contingent expense, 273.

to refer matter to committee, 301.

to lay on table resolution to change hour of meeting, 303.

to take section 4, bill of rights, from table, 363.

to amend section 4, bill of rights, 365.

to amend section 5, counties, cities, and towns, 400.

to rise and report, 407, 455, 456, 809, 1232.

to amend section 11, elections and suffrage, 615.

to refer sections 22 and 23 to judiciary, 648.

previous question on bill of rights, 650.

to amend section 3, amendments, 675.

to postpone action on elections and suffrage, 679.

to strike out section 3, elections and suffrage, 776.

for a recess, 783.

to amend section 14, elections and suffrage, 793.

to amend ordinance, 811, 1720.

to recommit article on public lands, 819.

to amend section 2, apportionment, 859.

to take a representative from Salt Lake, 862.

to amend section 7, legislative, 867.

to amend section 18, legislative, 879.

the previous question on appeal from chair, 968.

to amend section 20, executive, 1027.

SQUIRES, GEORGE B. (Continued.)

Moves—

- to amend section 2, taxation and revenue, 1114.
- to amend section 3, public debt, 1134.
- to amend article on labor, 1173, 1175.
- previous question, 1237, 1373, 1374, 1704, 1760.
- to amend section 5, judiciary, 1315.
- to make judiciary special order, 1413.
- to amend section 3, mines and mining, 1419.
- to reconsider article on elections and suffrage, 1497.
- to amend section 11, corporations, 1554.
- to amend section 22, corporations, 1569.
- to strike out banks from corporations, 1604.
- to amend section 21, bill of rights, 1720.
- to amend elections and rights of suffrage, 1721.
- to strike out sections 3 and 4, miscellaneous, 1782.
- to amend on revision, 1788, 1803, 1804, 1805, 1807, 1808, 1809, 1811, 1812, 1813, 1818, 1821, 1827, 1831, 1834.
- in relation to communication of Wilson, 1815.
- to lay resolution to print Constitution on table, 1824.
- to adopt address, 1837.

Nominates—

- John Henry Smith for president, 39.
- L. C. Camp as page, 55.
- Miss Macmaster as committee clerk, 120.

Presents—

- petition against suffrage, 994.
 - petitions for separate submission of suffrage, 857, 934, 1084, 1143.
- Requested to conduct to chair, 40.

Remarks—

- on motion to elect permanent officers, 43, 45, 47.
- on election of committee clerk, 47.
- on committee to engage stenographer, 53.

SQUIRES, GEORGE B. (Continued.)

Remarks—

- on hiring janitor, and report of committee on site, 69.
- on hiring a janitor, 69.
- on question of site and furniture, 71.
- on selection of seats, 72.
- on motion to adopt report on stenographer, 91, 95, 96, 100.
- on Evans's motion to correct minutes, 106.
- on motion to receive and file report of committee on expenses, 110.
- on motion to make report on education special order, 228.
- on motion to amend section 24, bill of rights, 345.
- on motion to amend section 25, bill of rights, 359, 366, 367.
- on motion to amend section 2, education and school lands, 379.
- on suffrage article, 455, 513, 515, 519, 523, 575, 801, 1794.
- on motion to amend section 10, bill of rights, 493, 494, 495, 622.
- on motion to strike out section 10, elections and suffrage, 606, 610.
- on motion to strike out section 12, elections and suffrage, 615.
- on section 5, elections and suffrage, 617, 618, 620.
- on motion to amend section 10, bill of rights, 622.
- on motion to amend section 22, bill of rights, 625, 648.
- on motion to go into committee of the whole, 669.
- on motion to amend section 6, municipal corporations, 671, 673.
- on motion to amend section 3, amendments, 675, 676, 677.
- on motion for a recess, 679.
- on motion to postpone action on elections and suffrage, 679, 681, 683, 684, 699.
- on motion to recommit elections and suffrage, 717, 718, 719, 725, 735, 736, 748, 749, 750.
- on motion to read by title and refer propositions, 111.

SQUIRES, GEORGE B. (Continued.)

Remarks—

- on reading Page's proposition, 112.
- on resolution for bids for stationery, 118.
- on fixing time of committee meetings, 119.
- on election of committee clerks, 120, 121, 122.
- on correction of rules, 130.
- on memorial on suffrage, 142.
- on report of committee on expenses, 147, 148, 149, 150, 151, 153, 154.
- on propositions for insertion in Constitution, 155.
- on Ivins's motion relating to typewriters, 158.
- on motion to adjourn, 168, 194, 766.
- on motion to refer correction of minutes, 174.
- on motion to refer legislative apportionment, 175.
- on resolution on senators and representatives, 186, 187.
- on motion to reconsider vote on minutes, 188.
- on motion to adopt report of committee on apportionment, 191.
- on motion to read report of committee on preamble, 201.
- on motion to go into committee of the whole, 203, 204.
- on motion to lay article on boundary on table, 205, 206.
- on boundary, 207.
- on motion to amend rules, 213.
- on regular order of business, 216.
- on report of committee on education, 216.
- on motion to restrict time to submit propositions, 218, 219.
- on motion on Coray, 221.
- on resolution on stenographer, 223.
- on resolution on clerks, 227.
- on passage of section 1, suffrage, 766, 770.
- on motion to amend section 3, elections and suffrage, 775, 776, 777.
- on motion to amend section 8, elections and suffrage, 779.

SQUIRES, GEORGE B. (Continued.)

Remarks—

- on motion to amend section 14, elections and suffrage, 788, 793, 794, 796, 798, 799, 1480, 1481, 1488, 1490.
- on motion to go into committee of the whole, 812.
- on motion to recommit public lands, 813, 814.
- on article on militia, 815, 816, 818.
- on motion to strike out section 1, apportionment, 820, 821, 822, 823.
- on motion to amend section 4, apportionment, 824, 827, 828, 855, 856, 858.
- on motion to amend section 2, apportionment, 860, 861, 862.
- on motion to strike out section 11, legislative, 867.
- on motion to amend section 13, legislative, 875.
- on motion to amend section 18, legislative, 879, 880.
- on motion to amend section 27, legislative, 885, 936.
- on motion to amend section 35, legislative, 940, 941.
- on challenging vote on section 36, legislative, 959.
- on voting on legislative article, 1005, 1006.
- on motion to amend section 12, executive, 1011, 1013.
- on motion to amend section 20, executive, 1021, 1024.
- on motion to amend section 1, labor and arbitration, 1039, 1052.
- on motion to amend section 3, labor and arbitration, 1054, 1055.
- on motion to amend section 7, labor and arbitration, 1062.
- on motion to strike out section 9, labor and arbitration, 1067.
- on motion to amend section 4, taxation and revenue, 1075, 1080, 1082, 1083.
- on presenting letter accompanying petition against suffrage, 1084.
- on motion to strike out section 5, taxation and revenue, 1091.

SQUIRES, GEORGE B. (Continued.)

Remarks—

- on motion to amend section 12, taxation and revenue, 1110, 1111, 1112.
- on motion to amend section 1, public debt, 1118, 1186.
- on motion to amend section 3, public debt, 1133, 1187.
- on motion to amend section 5, public debt, 1135, 1140.
- on motion to amend section 8, public debt, 1142.
- on section 6, executive, 1151.
- on article on labor, 1167, 1169, 1174, 1176.
- on motion to amend section 4, public debt, 1191.
- on water rights, 1204, 1205.
- on motion to amend section 4, education, 1232, 1306, 1347.
- on motion to reconsider accounts, 1237.
- on motion to amend section 5, education, 1255, 1258, 1265, 1268, 1271, 1280, 1284, 1339, 1347.
- on motion to reconsider section 14, elections, 1287.
- on motion to amend section 1, education, 1292, 1293, 1294, 1295.
- on motion to amend section 2, education, 1304, 1331.
- on motion to amend section 5, judiciary, 1315, 1503.
- on motion to amend section 8, judiciary, 1323, 1504.
- on motion to amend section 20, judiciary, 1328, 1389.
- on motion to amend section 1, judiciary, 1400, 1401, 1402.
- on motion to amend section 3, mines and mining, 1419, 1420, 1423, 1427, 1526, 1546.
- on motion to amend section 11, corporations, 1470, 1472, 1475, 1476, 1549, 1550, 1552, 1554.
- on motion for night sessions, 1476, 1477, 1479.
- on motion to amend section 9, judiciary, 1508.

SQUIRES, GEORGE B. (Continued.)

Remarks—

- on motion to amend section 20, judiciary, 1520.
- on motion to reconsider section 9, judiciary, 1521, 1522.
- on prohibition, 1546.
- on section 16, corporations, 1562.
- on section 20, corporations, 1563.
- on section 21, corporations, 1563, 1566.
- on section 23, corporations, 1571, 1574.
- on sections 25 and 26, corporations, 1579, 1580, 1582, 1584, 1590, 1671, 1672.
- on section 28, corporations, 1592.
- on section 38, corporations, 1603.
- on section 1, public lands, 1605, 1688.
- on new section to public lands, 1608, 1610, 1690.
- on section 3, public buildings, 1616.
- on section 4, public buildings, 1626.
- on section 6, public buildings, 1627.
- on schedule, 1634, 1636, 1653, 1739, 1756, 1759, 1763, 1767.
- on invitation to reception, 1654, 1683, 1684.
- on section 2, corporations, 1657.
- on section 9, corporations, 1658, 1659.
- on miscellaneous, 1786, 1796, 1799.
- on legislative, 1787.
- on revision, 1789, 1792, 1793, 1803, 1806, 1816, 1817, 1828, 1829, 1831, 1832, 1833, 1850.
- on resolution on engrossment, 1823.
- on printing Constitution, 1825.
- on compensation of stenographer, 1826.
- on invitation to Saltair, 1826.
- on engrossing, 1827.
- on voting on Constitution, 1835.
- on motion to divide per diem, 1835.
- on printing proceedings, 1841, 1842, 1843, 1846.

Seconds Eldredge's motion to postpone suffrage, 704.

Withdraws—

- motion to amend section 5, counties, cities and towns, 400.
- motion to refer, 649.

SQUIRES, GEORGE B. (Continued.)

Withdraws—

- motion to elect pages by acclamation, 55.
- amendment to section 3, public debt, 1135.

STOVER, D. B., Member from Stockton, Tooele County.

Appointed—

- on committee on credentials, 12.
- on committee to name standing committees, 38.
- on committee on corporations, 66.
- on committee on mines and mining, 67.
- on committee on militia, 67.

Moves—

- to amend section 3, labor and arbitration, 1053.
- to amend section 20, executive, 1021.
- to accept with thanks offer of the telephone company, 125.
- to amend section 2, elections and suffrage, 771.
- to amend section 20, legislative, 881.
- to adjourn, 1764.
- to accept invitation to ball, 1827.

Nominates—

- L. C. Johnson for committee clerk, 120.

Presents—

- proposition for insertion in Constitution on poll tax, 220.
- proposition for insertion in Constitution on public funds, 157.
- proposition for insertion in Constitution on sale and manufacture of spirits, 157.
- proposition for insertion in Constitution on inspection of public institutions, 157.
- proposition for insertion in Constitution on poll tax, 202.
- petition for separate submission of suffrage, 769, 809, 934.

STOVER, D. B. (Continued.)

Remarks—

- on report from committee on accounts, 101.
- on nomination of Johnson, 121, 123.
- on withdrawing Johnson's name, 159.
- on motion to recommit elections and suffrage, 750.
- on motion to amend section 2, elections and suffrage, 773.
- on motion to amend section 1, militia, 816.
- on motion to amend section 3, labor and arbitration, 1053, 1054, 1055.
- on labor, 1165.

STREVELL, C. N., Member from Ogden, Weber County.

Appointed—

- on committee on credentials, 12.
- on committee on education and school lands, 66.
- on committee on revenue, taxation and public debt, 67.
- chairman of committee on labor and arbitration, 67.

Asks privilege of floor for two members of Idaho legislature, 108.

Excused, 796.

Moves—

- to amend section 1, labor and arbitration, 1032, 1050, 1053.
- to amend section 3, counties, cities and towns, 399.
- to adopt report of committee on credentials, 37.
- relating to flag, 104.
- to amend motion on rules, 316.
- a new section to labor and arbitration, 1067.
- to amend article on labor, 1175.
- to amend section 29, corporations, 1597.

Presents—

- proposition on capital and labor for insertion in the Constitution, 112.
- proposition for insertion in Constitution on damages, 114.

STREVELL, C. N. (Continued.)

Presents—

- propositions for insertion in Constitution on labor and elections, 155.
- proposition for insertion in Constitution on election of senators, 202.

Reports as chairman of committee on credentials, 37.

Remarks—

- on report of committee on credentials, 37.
- on voting on legislative article, 1005.
- on motion to amend section 20, executive, 1024.
- on motion to amend section 1, labor and arbitration, 1033, 1038, 1039, 1041, 1044, 1045, 1050, 1053.
- on motion to strike out section 4, labor and arbitration, 1056.
- on motion to amend section 7, labor and arbitration, 1060, 1061, 1064, 1066.
- on motion to strike out section 8, labor and arbitration, 1066.
- on motion to strike out section 9, labor and arbitration, 1067.
- on motion to amend labor and arbitration, 1068.
- on labor, 1164, 1175.
- on section 28, corporations, 1593.
- on section 11, corporations, 1661.
- on section 14, corporations, 1664.

SYMONS, CHARLES W., Member from First Precinct, Salt Lake City.

Appointed—

- on judiciary committee, 66.
- on committee on militia, 67.

Nominates—

- John H. Thorn as page, 55.
- John F. Chidester for temporary sergeant-at-arms, 12.

Presents—

- proposition for insertion in Constitution on taxation, 202.

TALMAGE, DR. JAMES E.

remarks on education, 1341, 1343.

TATLOCK, E. W.

presented gavel to the president, 42.

THATCHER, MOSES, Member from Logan, Cache County.

Appointed—

- on committee on preamble, 65.
- on committee on revenue, taxation and public debt, 67.
- on committee on ordinance, 67.
- on committee on compilation and arrangement, 67.

Letter from, 213.

Moves—

- to elect Parley P. Christensen by acclamation, 47.
- for recess to prepare names of officers, 48.
- to correct rule 22, 133.
- to amend section 8, public debt, 1142.
- to amend section 12, judiciary, 1521.
- to strike out section 24, judiciary, 1520.
- to amend section 13, corporations, 1555.
- to amend section 2, public lands, 1606.
- to amend section 2, salaries, 1613.

Remarks—

- on motion to refer back report on credentials, 35.
- on election of committee clerks, 47, 48.
- on voting for Joseph A. Smith, 52.
- on reading of rules, 81.
- on motion to adopt report of committee on stenographer, 92, 93, 94.
- on proposition to go into Constitution, 103.
- on question of official stenographer, 93, 94.
- on adopting rules, 133, 135.
- on committee clerks, 104.
- on motion to strike out labor, 1168.
- on water rights, 1233.
- on motion to amend section 5, education, 1261, 1271, 1272, 1286.
- on motion to amend section 4, education, 1340, 1354, 1355, 1357.
- on motion to amend section 3, mines and mining, 1420, 1535, 1536.

THATCHER, MOSES (Continued.)

Remarks—

- on motion to adopt majority report on prohibition, 1444, 1446.
- on motion to amend section 11, corporations, 1474, 1554.
- on motion to amend section 27, judiciary, 1520.
- on section 25, corporations, 1580, 1670, 1671, 1675.
- on section 3, public buildings, 1625, 1626.
- on section 23, corporations, 1668, 1683.

Takes oath as a member, 13.

THOMPSON, DANIEL, Member from Scipio, Millard County.

Appointed—

- on committee to name standing committees, 38.
- on committee on preamble, 65.
- on executive committee, 66.
- on committee on public buildings and State institutions, 66.

Excused 77, 663.

Moves—

- to refer proposition, 193.
- to amend section 3, public debt, 1142.

Offered prayer, 1723.

Presents—

- proposition for insertion in Constitution regulating corporations, 193.
- petition for suffrage to go into Constitution, 994.

Remarks—

- on electing committee clerk, 161.
- on motion to strike out section 10, elections and suffrage, 613.
- on motion to postpone action on elections and suffrage, 700.
- on appeal from chair on vote on section 36, legislative, 970.
- on voting on reconsideration of section 36, legislative, 1003.
- on motion to amend section 10, education, 1294, 1295, 1301.

THOMPSON, DANIEL (Continued.)

Remarks—

- on motion to adopt majority report on prohibition, 1447.
- on section 23, corporations, 1575.
- on section 37, corporations, 1603.
- on section 3, public buildings, 1619.

Seconds—

- Richards's amendment to section 23, bill of rights, 338.
- Allen's motion for previous question, 735.

THORESON, I. C., Member from Hyrum, Cache County.

Appointed—

- on committee on salaries of public officials, 67.
- on committee on taxation, revenue and public debt, 297.
- on committee on compilation and arrangement, 297.

Moves—

- to amend section 3, taxation and revenue, 1115.
- to amend substitute for section 14, elections and suffrage, 789.
- to amend boundary, 207.
- the previous question on the suffrage measure, 417.
- to amend report of committee on expenses, 75.
- to take section 4, bill of rights, from table, 252.
- to amend section 23, legislative, 936.
- to amend section 24, legislative, 936.
- to amend section 5, public debt, 1135.
- to strike out section 3, water rights, 1217.
- to amend section 2, education, 1226.
- to amend section 10, education, 1292.
- to amend section 3, mines and mining, 1420.
- to amend section 1, public lands, 1686.
- to amend section 4, public lands, 1690.
- to amend bill of rights, 1719, 1720.
- to amend section 2, miscellaneous, 1774.

THORESON, I. C. (Continued.)

Moves—

- on revision, 1815.
- to accept invitation to Saltair, 1826.
- a substitute for resolution on printing proceedings, 1840.

Offers excuse for Low, 319.

Presents—

- proposition on public corporations for Constitution, 112.
- proposition on suffrage and elections for Constitution, 114.
- proposition for insertion in Constitution on removal of county seats, 203.
- proposition for insertion in Constitution on primary water rights, 272.
- petition for separate submission of suffrage, 934.
- petition for suffrage to go into the Constitution, 1181.

Remarks—

- on resolution to get bids on stationery, 118.
- on report of committee on expenses, 149.
- on motion to refer propositions, 155, 156.
- on electing committee clerk, 161.
- on article on boundary, 207.
- on report of committee on education, 216.
- on reading of resolution on Coray, 221.
- on resolution on clerk, 224, 227.
- on accounts and expenses, 298.
- on motion to amend section 24, bill of rights, 357.
- on motion to amend section 3, amendments, 406.
- on motion to strike out section 10, elections and suffrage, 609.
- on motion to amend section 5, elections and suffrage, 620.
- on motion to amend section 22, bill of rights, 632, 638, 645.
- on motion to postpone action on elections and suffrage, 684.

THORESON, I. C. (Continued.)

Remarks—

- on motion to recommit elections and suffrage, 714.
- on a point of order on Lewis, 747.
- on motion to amend section 2, elections and suffrage, 771.
- on motion to amend section 3, elections and suffrage, 777.
- on motion to amend section 8, elections and suffrage, 779.
- on motion to amend section 14, elections and suffrage, 788, 789, 791, 792, 1481, 1482, 1483, 1494.
- on motion to recommit public lands, 814.
- on motion to amend section 4, apportionment, 853, 854.
- on motion to amend section 8, legislative, 935.
- on motion to strike out section 35, legislative, 943, 948.
- on appeal from chair on vote on section 36, legislative, 964.
- on motion to amend section 1, labor and arbitration, 1046.
- on motion to strike out section 8, taxation and revenue, 1109.
- on motion to amend section 12, taxation and revenue, 1110, 1111, 1112.
- on motion to amend section 1, public debt, 1117.
- on motion to amend section 3, public debt, 1129.
- on motion to amend section 4, public debt, 1190.
- on motion to amend section 5, public debt, 1196, 1197.
- on water rights, 1205, 1217, 1233.
- on motion to amend section 3, education, 1231.
- on motion to amend section 5, education, 1259, 1261, 1361.
- on motion to amend section 2, education, 1302.
- on motion to adopt section 9, education, 1362.
- on motion to amend section 8, judiciary, 1504, 1505, 1506.

THORESON, I. C. (Continued.)

Remarks—

- on resolution on final reading of articles, 1585, 1586.
- on section 28, corporations, 1594.
- on schedule, 1648, 1749, 1754.
- on section 1, public lands, 1687, 1689.
- on section 4, public lands, 1692, 1702.
- on miscellaneous, 1777, 1780, 1786, 1797, 1799.
- on revision, 1788, 1816, 1820, 1828, 1829, 1830, 1832.
- on printing proceedings, 1841, 1843.

THORN, JOHN H., Salt Lake City.

- page, 2.
- elected page, 55.
- nominated for page by C. W. Symons, 55.
- sworn in as page, 55.

THORN, JOSEPH E., Member from Pleasant Grove, Utah County.

Appointed—

- on committee on public buildings and State institutions, 66.
- on committee on manufactures and commerce, 67.

Offered prayer, 1835.

THURMAN, SAMUEL R., Member from Provo, Utah County.

Appointed—

- on committee on site, 36.
- to escort secretary to seat, 47.
- on committee on stenographer, 55.
- on judiciary committee, 66.
- on committee on elections and suffrage, 66.
- on committee on corporations, 66.
- on committee to prepare address, 1802.

Called to the chair in committee of the whole, 345.

Excused, 141.

THURMAN, SAMUEL R. (Continued.)

Moves—

- for committee to name standing committees, 36.
- that rule 1 be read, 87.
- relating to standing committees, 75, 76.
- to suspend rules, 102.
- for chairman of committees to give notice, 103.
- to suspend the rule and refer propositions, 111.
- to amend rule 3, 127.
- to refer article on apportionment, 167.
- to appoint committee to revise minutes, 173.
- to strike out from section 9, bill of rights, 258.
- to go into committee of the whole, 288.
- to refer Low's proposition to committee of the whole, 300.
- to lay Jolley's proposition to tax professionals on table, 300.
- to set time to adjourn, 301.
- to accept report of committee on rules and change time of meeting, 316.
- to amend section 18, bill of rights, 323.
- to amend section 23, bill of rights, 326.
- to go into committee of the whole, 408.
- to go into committee of the whole on suffrage, 419.
- for previous question on section 22, bill of rights, 650.
- a point of order on Eichnor's amendment to section 1, elections and suffrage, 705.
- to lay Lambert's amendment to section 1, suffrage, on table, 766.
- to amend section 14, elections and suffrage, 784, 785.
- to suspend rules on reconsideration of articles, 801.
- to amend section 4, legislative, 866.
- to amend section 13, legislative, 874.
- to amend section 14, executive, 1014.
- to make reconsideration of suffrage special order, 1031.

THURMAN, SAMUEL R. (Continued.)

Moves—

- to amend section 3, labor and arbitration, 1053.
- to strike out section 4, labor and arbitration, 1056.
- to strike out section 7 and substitute, labor and arbitration, 1060.
- to amend motion on section 8, public debt, 1141.
- to lay reconsideration of suffrage on table, 1146.
- to take minority report on prohibition from table, 1183.
- to amend section 1, public debt, 1199.
- to amend section 9, judiciary, 1506.
- to reconsider judiciary, 1524.
- to amend section 38, corporations, 1603.
- to amend section 1, salaries, 1612.
- to strike out section 5, public lands, 1703.
- to amend section 6, public lands, 1703.
- to amend section 13, bill of rights, 1719.
- to amend suffrage, 1721, 1722.
- to amend section 9, schedule, 1759.
- to amend on revision, 1793, 1813, 1820, 1824.
- to suspend rules and consider section 9, elections, 1794.
- to amend miscellaneous, 1843.
- for committee on compilation to ascertain expense of printing proceedings, 1845.

Presents—

- memorial on suffrage from ladies of Utah County, 162.
- proposition for insertion in Constitution on taking private property for public purposes, 164.
- proposition for insertion in Constitution on non-partisan school elections, 166.
- petition for separate submission of suffrage, 769.

THURMAN, SAMUEL R. (Continued.)

Presents—

- petition for separate submission of suffrage, 810, 976.
- petition for suffrage to go into the Constitution, 1232.

Remarks—

- on motion to refer back report on credentials, 19, 21.
- on motion to adjourn, 36, 38.
- on organization, 36.
- on selecting committee to name standing committees, 38.
- on motion to elect permanent officers, 44, 49.
- on motion on stenographer, 54.
- on election of committee clerks, 47.
- on election of enrollment clerk, 52.
- on motion to adjourn, 63, 168.
- on motion of Evans relating to selecting seats, 72.
- on motion relating to standing committees, 76.
- on motion to read rules, 80.
- on motion to change time of meeting, 88, 89.
- on official stenographer, 92, 93, 95, 96, 98, 99, 100.
- on suffrage, 101.
- on committee meeting announcements, 103.
- on motion to correct minutes, 107.
- on referring proposition for insertion in Constitution, 111, 116.
- on motion of Evans, 113.
- on election of committee clerk, 120, 122.
- on adopting rules, 127, 135, 136.
- and requests that memorial on suffrage be read, 162.
- on proposition on live stock, 164.
- on motion to adjourn, 168, 171, 194.
- on motion to refer correction of minutes, 174, 189.
- on motion to refer legislative apportionment, 176, 177.
- on resolution on senators and representatives, 177, 182, 183.
- on motion to reconsider motion to refer correction of minutes, 189.

THURMAN, SAMUEL R. (Continued.)

Remarks—

- on motion for additional clerk, 194.
- on proposition for insertion in Constitution on location of capital, 202.
- on proposition for insertion in Constitution, 203.
- on article on boundary, 207, 212.
- on resolution on Constitution and its nature, 212.
- on report of committee on education, 217.
- on resolution on stenographer, 223.
- on motion to amend section 4, bill of rights, 232, 245, 246, 251.
- on motion to amend section 5, bill of rights, 253, 254.
- on section 9, bill of rights, 257.
- on motion to amend section 10, bill of rights, 260, 262, 275, 277, 291.
- on motion to set a time for report of committee on elections and suffrage, 264, 265, 266, 267, 268.
- on report of committee on expenses, 272.
- on proposition on right of way, 300.
- on proposition to tax professional men, 300.
- on motion to change time of meeting, 301, 302, 303.
- on motion to amend section 12, bill of rights, 309, 312.
- on motion to amend section 13, bill of rights, 314, 315, 319.
- on motion to report elections and suffrage, 318, 801.
- on substitute for section 15, bill of rights, 320.
- on motion to strike out section 21, bill of rights, 325, 326.
- on motion to amend section 23, bill of rights, 326, 327, 329, 331, 336, 338.
- on motion to amend section 2, education and school lands, 383.
- on motion to refer back article on education and school lands, 394, 396.
- on motion to amend section 5, counties, cities and towns, 400, 401, 404.
- on motion to adopt minority report on suffrage, 408, 409, 411, 415, 416.

THURMAN, SAMUEL R. (Continued.)

Remarks—

- on suffrage, 434, 461, 470, 518, 536, 538, 543, 553, 567, 576, 1722, 1723.
- on motion to strike out section 10, elections and suffrage, 603, 604, 606, 609, 610, 611.
- on motion to amend section 14, elections and suffrage, 616, 617.
- on section 5, elections and suffrage, 617.
- on motion to amend section 5, elections and suffrage, 620.
- on motion to amend section 22, bill of rights, 625, 626, 627, 628, 635, 645, 650.
- on voting on bill of rights, 652.
- on motion to go into the committee of the whole, 668, 669, 703.
- on motion to amend section 6, municipal corporations, 672.
- on motion to amend section 3, amendments, 677.
- on motion to postpone action on elections and suffrage, 682, 684, 694, 704.
- on point of order on Eichnor's amendment to section 1, elections and suffrage, 705, 708, 709.
- on motion to recommit elections and suffrage, 715, 716, 746, 752, 754, 764.
- on motion to amend section 2, elections and suffrage, 771, 772.
- on motion to amend section 2, elections and suffrage, 772.
- on motion to amend section 3, elections and suffrage, 773, 774, 775, 777.
- on motion to amend section 8, elections and suffrage, 780.
- on motion to amend section 14, elections and suffrage, 785, 786, 787, 789, 797, 1480, 1481, 1482, 1483, 1484, 1486, 1487, 1488, 1489, 1492, 1493.
- on motion to suspend rules on elections and suffrage, 801, 802.
- on a point of order on motion to suspend rules on suffrage, 802.
- on motion to recommit public lands, 813, 814.
- on motion to amend section 4, apportionment, 846, 847, 848, 857, 858, 859.

THURMAN, SAMUEL R. (Continued.)

Remarks—

- on presentation of petitions, 852.
- on motion to adopt apportionment, 863.
- on motion to strike out section 11, legislative, 868, 869.
- on motion to amend section 13, legislative, 870, 871, 872, 877.
- on motion to amend section 20, legislative, 882.
- on motion to amend section 27, legislative, 884.
- on motion to add new section to legislative, 887.
- on Roberts's amendment to legislative article, 908, 911, 912, 922.
- on motion to strike out section 35, legislative, 949.
- on appeal from chair on section 36, legislative, 964, 965, 966.
- on motion to reconsider section 36, legislative, 973.
- on motion to amend section 31, legislative, 975.
- on motion to reconsider section 36, legislative, 977, 981, 983.
- on motion to amend section 12, executive, 1008, 1011, 1012, 1013, 1014.
- on motion to amend section 20, executive, 1017, 1018, 1024, 1026, 1028, 1029, 1154.
- on motion to amend section 1, labor and arbitration, 1052.
- on motion to amend section 3, labor and arbitration, 1053.
- on motion to strike out section 5, labor and arbitration, 1060.
- on motion to strike out section 7, labor and arbitration, 1061, 1062, 1063, 1066.
- on motion to amend section 2, taxation and revenue, 1071, 1072.
- on motion to amend section 3, taxation and revenue, 1074.
- on motion to amend section 4, taxation and revenue, 1080.
- on motion to strike out section 5, taxation and revenue, 1091, 1099.

THURMAN, SAMUEL R. (Continued.)

Remarks—

- on motion to amend section 12, taxation and revenue, 1112.
- on motion to amend section 2, taxation and revenue, 1114.
- on motion to amend section 13, taxation and revenue, 1115.
- on motion to amend section 1, public debt, 1117, 1123, 1199, 1200, 1201.
- on motion to amend section 3, public debt, 1127, 1134.
- on motion to amend section 5, public debt, 1135.
- on motion to amend section 8, public debt, 1141, 1142.
- on reconsideration of suffrage, 1149, 1497.
- on article on labor, 1165.
- on motion to table minority report on prohibition, 1183.
- on motion to amend section 3, education, 1229.
- on motion to amend section 4, education, 1232, 1342, 1347, 1353, 1362.
- on motion to reconsider accounts, 1237.
- on motion to amend section 5, education, 1248, 1284, 1285, 1286, 1305.
- on motion to amend section 10, education, 1299, 1300.
- on motion to amend section 2, education, 1302, 1306.
- on motion to amend section 5, judiciary, 1314, 1317.
- on motion to amend section 7, judiciary, 1321, 1504.
- on motion to amend section 20, judiciary, 1326, 1382, 1391.
- on motion to amend section 15, judiciary, 1393, 1395, 1396.
- on a point of order on Farr's motion to amend, 1413.
- on mines and mining, 1430, 1431, 1525, 1529, 1533, 1534, 1535, 1542, 1543, 1544, 1545.
- on motion to adopt majority report on prohibition, 1456.
- on motion to strike out section 1, corporations, 1465.

THURMAN, SAMUEL R. (Continued.)

Remarks—

- on motion to amend section 11, corporations, 1472, 1474, 1475, 1549.
- on motion for night sessions, 1477, 1478.
- on motion to amend section 2, judiciary, 1498, 1499.
- on motion to amend section 8, judiciary, 1504, 1505, 1506.
- on motion to amend section 9, judiciary, 1507, 1508, 1512, 1513, 1521, 1522, 1523.
- on motion to amend section 25, judiciary, 1520.
- on motion to amend section 26, judiciary, 1521.
- on motion to strike out section 16, corporations, 1562.
- on section 20, corporations, 1563.
- on section 23, corporations, 1574.
- on section 25, corporations, 1581, 1582, 1583, 1673.
- on section 26, corporations, 1583, 1584, 1590.
- on resolution to record absentees, 1588.
- on section 28, corporations, 1593, 1594.
- on section 29, corporations, 1596, 1597.
- on public lands, 1606, 1607, 1609, 1701, 1702.
- on salaries, 1612.
- on section 3, public buildings, 1615, 1616, 1617, 1618, 1623, 1624, 1625.
- on section 4, public buildings, 1626.
- on section 6, public buildings, 1627, 1715, 1731.
- on section 9, schedule, 1640, 1641, 1642, 1647.
- on section 3, corporations, 1655, 1657.
- on section 10, corporations, 1661.
- on section 14, corporations, 1665.
- on corporations, 1680, 1683.
- on ordinance, 1720.
- on schedule, 1737, 1738, 1742, 1743, 1744, 1748, 1755, 1757, 1763, 1765.
- on revision, 1788, 1789, 1790, 1791, 1792, 1804, 1818, 1831, 1832, 1833, 1850.
- on miscellaneous, 1796, 1802, 1814.

THURMAN, SAMUEL R. (Continued.)

Remarks—

- on resolution on committee on engrossment, 1823.
- on voting on Constitution, 1833.
- on motion to divide per diem, 1835.
- on printing proceedings, 1845.

Seconds—

- nomination of Newton Farr as enrolling clerk, 50.
- resolution of Roberts relating to Enabling Act, 64.
- Roberts's motion for drawers on tables, 116.
- motion to amend section 1, executive, 653.
- Squires's motion on representative, 862.
- motion to strike out section 3, labor and arbitration, 1054.
- Evans's motion to rebuke Squires, 1055.

Withdraws motion to lay on table, 706.

VAN HORNE, W. G., Member from Second Precinct, Salt Lake City.

Appointed—

- on committee on site of holding Convention, 36.
- chairman of committee on legislative, 65.
- on committee on judiciary, 66.
- on committee on executive, 66.
- Amends Roberts's resolution to conform to Enabling Act, 64.
- Called to the chair in committee of the whole, 1588.

Moves—

- to appoint committee on qualification of members, 12.
- to refer back report of committee on credentials, 13.
- to appoint a committee on permanent place of meeting, 36.
- to reconsider in relation to election of officers, 48.
- to elect pages singly, 55.
- to invite different reverends to act as chaplains, 56.

VAN HORNE, W. G. (Continued.)

Moves—

- to substitute motion on seats, 73.
- to adjourn, 123, 769.
- to amend rule six, 128.
- to amend rule, 133.
- to refer report back to committee on expenses, 152.
- relating to salaries of officers, 152.
- to read by title and refer, 155.
- to refer, 155, 156.
- to refer correction of minutes to committee on compilation, 174.
- to read report of committee on preamble, 200.
- to rise and report progress, 242.
- to strike out section 7, bill of rights, 257.
- to amend motion to go into committee of the whole, 272.
- to amend section 10, bill of rights, 283.
- to amend section 11, bill of rights, 305.
- to amend section 12, bill of rights, 306, 311.
- to amend section 17, bill of rights, 323.
- to amend section 23, bill of rights, 339.
- to amend section 24, bill of rights, 339, 358.
- to strike out section 29, bill of rights, 362.
- to amend section 4, bill of rights, 365.
- a point of order on Murdock, 461.
- to strike out section 26, bill of rights, 650.
- to amend section 12, executive, 667.
- to amend section 3, amendments, 675, 676, 677.
- to amend section 4, elections and suffrage, 778.
- to amend section 8, elections and suffrage, 781.
- to amend substitute for section 14, elections and suffrage, 800.
- to amend section 4, apportionment, 850.
- to amend section 2, apportionment, 861.
- to amend section 3, legislative, 865.
- to amend section 5, legislative, 867.
- to amend section 20, legislative, 882.

VAN HORNE, W. G. (Continued.)

Moves—

- to pass section 31 until other sections are considered, 937.
 - to amend section 35, legislative, 950.
 - to amend section 20, executive, 1027, 1153.
 - to amend section 5, labor and arbitration, 1060.
 - to amend section 10, executive, 1152.
 - to strike out section 12, executive, 1153.
 - a substitute for section 14, corporations, 1555.
 - to amend section 16, corporations, 1562.
 - to amend section 19, corporations, 1562.
 - to amend section 21, corporations, 1568.
 - to amend section 22, corporations, 1569.
 - matter for section 3, schedule, 1745.
 - to adjourn, 1765.
 - to reconsider section 2, schedule, 1793, 1794.
- Nominates L. C. Johnson for committee clerk, 124.

Presents—

- proposition for insertion in Constitution on prohibition, 299.
- petition for separate submission of suffrage, 809, 850, 1143, 1181.

Remarks—

- on motion for committee of five, on credentials, 12.
- on motion to refer back report on credentials, 19, 20, 21, 23, 24, 25.
- on motion for recess, 38.
- requesting some one else be appointed on committee on site, 38.
- on method of electing president, 39.
- on motion to reconsider, 48, 49.
- relating to election of stenographer, 48, 49.
- on point of order, 49.
- relating to adopting report of committee on site, 68.
- relating to election of janitor, 69.
- on motion to adopt report of committee on site, 69, 70.

VAN HORNE, W. G. (Continued.)

Remarks—

- on selecting seats, 73.
- on motion to refer to printing committee, 116.
- on fixing times of committee meeting, 119.
- on election of committee clerks, 122, 123.
- on rules, 133, 135.
- on report of committee on expenses, 149, 152, 153.
- on motion to refer correction of minutes, 174, 175.
- on resolution to refer legislative apportionment, 177.
- on motion to adjourn, 194.
- on report of committee on preamble, 200.
- on article on boundary, 207.
- on order of business, 208.
- on motion to amend section 1, bill of rights, 229.
- on motion to amend section 4, bill of rights, 239, 240, 244, 246, 363.
- on motion to amend section 5, bill of rights, 253, 254.
- on motion to amend section 10, bill of rights, 262, 283, 285.
- on report of committee on accounts and expenses, 272.
- on motion to amend section 12, bill of rights, 306, 310, 311, 312.
- on motion to amend section 13, bill of rights, 314, 315.
- on motion to amend section 23, bill of rights, 330, 338, 339.
- on motion to amend section 24, bill of rights, 342, 344, 358.
- on motion to amend section 2, education and school lands, 373, 382.
- on suffrage, 518.
- on motion to amend section 22, bill of rights, 632.
- on motion to amend section 6, executive, 664, 665.
- on section 11, executive, 667.
- on motion to amend section 6, municipal corporations, 669, 671.

VAN HORNE, W. G. (Continued.)

Remarks—

- on motion to amend section 3, amendments, 676, 677.
- on motion to postpone action on elections and suffrage, 688.
- on point of order on motion to take recess, 732.
- on motion to recommit elections and suffrage, 761.
- on motion to amend section 2, elections and suffrage, 771.
- on motion to amend section 14, elections and suffrage, 795.
- on motion to amend section 1, militia, 817.
- on motion to amend section 4, apportionment, 829, 830, 850, 855.
- on motion to amend section 2, apportionment, 861.
- on motion to amend section 2, legislative, 865.
- on motion to amend section 4, legislative, 866, 867.
- on motion to amend section 11, legislative, 868.
- on motion to amend section 12, legislative, 869.
- on motion to amend section 18, legislative, 879, 880.
- on motion to amend section 19, legislative, 881.
- on motion to amend section 20, legislative, 882.
- on motion to amend section 24, legislative, 883.
- on motion to amend section 26, legislative, 884.
- on motion to amend section 27, legislative, 884, 885.
- on motion to amend section 29, legislative, 886.
- on section 30, legislative, 886.
- on motion to add new section to legislative, 888.
- on motion to adopt section 4, minority report on legislative, 891, 892.
- on Roberts's amendment to legislative article, 922.

VAN HORNE, W. G. (Continued.)

Remarks—

- on motion to amend section 8, legislative, 934, 935.
- on motion to amend section 9, legislative, 936.
- on motion to strike out section 33, legislative, 937.
- on motion to strike out section 35, legislative, 941, 942, 943.
- on point of order on vote taken, 958.
- on appeal from decision of chair on section 36, legislative, 961, 962.
- on motion to amend section 31, legislative, 974.
- on motion to amend section 12, executive, 1014.
- on motion to amend section 20, executive, 1018, 1153.
- on motion to strike out section 1, labor and arbitration, 1040.
- on motion to amend section 3, labor and arbitration, 1054, 1055.
- on amendment to labor, 1173.
- on motion to amend section 11, taxation and revenue, 1178.
- on motion to file petitions, 1182.
- on motion to amend section 4, education, 1358.
- on motion to amend section 10, education, 1300.
- on motion to amend section 5, education, 1273, 1306.
- on motion to amend section 5, judiciary, 1319.
- on motion to amend section 20, judiciary, 1389, 1517.
- on motion to add new section to judiciary, 1393.
- on motion to amend section 15, judiciary, 1395.
- on motion to amend section 1, judiciary, 1404.
- on motion to amend section 24, judiciary, 1521.
- on mines and mining, 1539, 1540, 1541, 1542, 1544.
- on section 14, corporations, 1556, 1557, 1558, 1559.

VAN HORNE, W. G. (Continued.)

Remarks—

- on section 16, corporations, 1560, 1561, 1562.
- on section 21, corporations, 1564.
- on section 22, corporations, 1569.
- on schedule, 1745, 1750, 1754, 1794, 1795.
- on revision, 1788, 1789, 1793.

Reports as chairman of committee on legislative, 394.

Seconds—

- nomination of Bruce Johnson, 49.
- motion to receive report of committee on standing committees, 57.
- motion to refer Hart's resolution to committee on rules, 63.
- Ivins's motion instructing committee on furniture, 62.
- Stover's motion to amend section 2, suffrage, 771.
- motion to amend section 14, elections and suffrage, 792.

Withdraws substitute to section 10, bill of rights, 296.

VARIAN, CHARLES S., Fifth Precinct, Salt Lake City.

Appointed—

- on committee on rules, 61, 65.
- chairman of executive committee, 66.

Amends Kiesel's motion, 117.

Asks leave of absence on committee on suffrage, 162.

Appeals from decision of chair, 705, 957.

Called—

- to act as temporary chairman, 674, 789.
- to chair in committee of the whole, 1413.

Calls for the ayes and noes, 685.

Moves—

- to appoint a committee of seven on credentials, 12.
- for recess for an hour, 12.

VARIAN, CHARLES S. (Continued.)

Moves—

- to nominate officers and vote for all at once, 47.
- to receive report of committee on standing committees modified by minority report, 56.
- to adjourn, 77.
- to read rules by sections, 80.
- to swear in stenographer, 100.
- to set certain time for consideration of rules, 102.
- to refer correction of minutes to committee on expense, 107.
- for sergeant-at-arms to procure clock, 117.
- for chairman of committees to meet, 119.
- for regular order, 16, 126.
- that rules be read consecutively and amended, 126.
- to lay memorial on suffrage on table, 143.
- to defer action on expense report, 145.
- to table resolution on stenographer, 224.
- to read bill of rights by sections and amend, 229.
- to lay amendment to section 4, bill of rights, on the table, 241, 248.
- to amend amendment to section 10, bill of rights, 259.
- amendment to substitute on section 10, bill of rights, 262.
- to adopt report of committee on rules, 268, 298.
- to refer to committee of whole, 272.
- to indefinitely postpone motion to fine absent members, 304.
- to amend section 12, bill of rights, 311, 1719.
- to strike out section 21, bill of rights, 323.
- to strike out section 24, bill of rights, 339.
- for committee to rise, 362, 668.
- to amend section 4, bill of rights, 364.
- to adopt section 4, bill of rights, 365.
- to report article on preamble and bill of rights adopted, 365.

VARIAN, CHARLES S. (Continued.)

Moves—

- to amend section 2, education and school lands, 367, 389.
- to go into committee of the whole, 394.
- to recommit education and school lands, 394.
- to amend section 3, counties, cities and towns, 398.
- to amend section 4, counties, cities and towns, 399.
- to amend section 5, counties, cities and towns, 401, 403.
- to lay petitions to change place of meeting on table, 578.
- to strike out section 14, elections and suffrage, 616.
- to rise and report elections and suffrage to Convention, 618.
- to strike out section 23, bill of rights, 650.
- to amend section 11, executive, 667.
- to recommit elections and suffrage, 712.
- to amend motion to adjourn, 757.
- to amend section 3, elections and suffrage, 777.
- to amend section 8, elections and suffrage, 780.
- to amend section 4, apportionment, 831.
- to return the unsigned petition to Low, 852.
- to amend section 24, legislative, 883.
- to amend section 27, legislative, 884.
- to amend section 29, legislative, 885.
- to amend section 31, legislative, 928.
- to amend section 35, legislative, 947.
- a new section, 36, to legislative, 951.
- the previous question on substitute for section 36, legislative, 956.
- to reconsider vote on section 36, legislative, 976.
- to amend section 31, legislative, 973, 974.
- to allow expense of committee on judiciary, 977.
- to amend section 12, executive, 1013.

VARIAN, CHARLES S. (Continued.)

Moves—

- to amend section 20, executive, 1023, 1030.
- to amend section 1, labor and arbitration, 1037.
- to amend section 2, taxation and revenue, 1070.
- to amend section 4, taxation and revenue, 1074.
- to reconsider section 1, elections and suffrage, 1144.
- to amend article on labor, 1176.
- to lay report of minority on prohibition on table, 1183.
- a substitute for section 1, public debt, 1184.
- to strike out section 2, water rights, 1217.
- to amend section 2, education, 1220.
- to amend water rights, 1233.
- to amend section 10, education, 1301.
- to amend section 2, education, 1301.
- to amend section 6, education, 1312.
- to amend section 5, judiciary, 1320.
- to amend section 7, judiciary, 1320.
- to amend section 4, judiciary, 1320.
- to amend section 9, judiciary, 1322.
- to amend section 3, education, 1336.
- the previous question on education, 1372.
- to amend section 20, judiciary, 1375.
- a new section to judiciary, 1392.
- to amend section 4, judiciary, 1501.
- to reconsider vote on amendment to section 9, judiciary, 1521.
- to strike out section 19, corporations, 1562.
- to amend section 21, corporations, 1564.
- to amend section 21, corporations, 1569.
- to strike out section 35, corporations, 1600.
- to amend section 37, corporations, 1602, 1603, 1604, 1680.
- to amend section 2, salaries, 1613.
- to amend motion on section 3, public buildings, 1614.

VARIAN, CHARLES S. (Continued.)

Moves—

- to amend section 22, corporations, 1667.
- to adjourn, 1681, 1683.
- the previous question on public lands, 1703.
- to amend section 2, schedule, 1736.
- to amend section 6, schedule, 1750.
- to amend motion to refer, 1767.
- a substitute for section 2, miscellaneous, 1774.
- to rise and report, 1786.
- to amend legislative on revision, 1793.
- to reconsider vote on miscellaneous, 1802.
- on revision, 1810, 1811, 1813, 1815, 1831.
- to pass the Constitution as a whole, 1834.
- to approve, and president to sign minutes, 1852.

Presents—

- proposition for insertion in Constitution on community system, 157.
- proposition for insertion in Constitution on taxing mines, 157.
- report of committee on rules, 79, 243, 268, 298, 316, 419, 1177.
- report of committee on executive, 298.
- petition for separate submission of suffrage, 711.
- Protests against call for the previous question, 638.

Remarks—

- on question of adjournment, 12.
- on motion to appoint committee of five on credentials, 12.
- on duties of committee on credentials, 13.
- on question to refer back report on credentials, 14—19, 23, 24, 26, 27, 28, 29.
- on motion to elect permanent officers, 46, 49.
- on election of committee clerks, 47, 48.
- on point of order on election of officers, 48.
- on election of a stenographer, 53, 55.

VARIAN, CHARLES S. (Continued.)

Remarks—

- on inviting different clergymen to act as chaplains, 56.
- on report of committee on standing committees, 57, 58.
- on Hart's resolution relating to library, 64.
- on Wells's and Hart's motion, and referring it to committee on rules, 74, 75.
- on motion relating to standing committee and rules, 76.
- on Enabling Act, 77.
- on motion to adjourn, 78.
- on motion to read rules, 80, 81.
- on changing time of meeting from 10 a. m. to 2 p. m., 87, 88.
- on remuneration of official stenographer, 94, 100, 101.
- on rules in relation to propositions, 101.
- on motion to refer correction of minutes, 107.
- on reports of committees, 108, 109.
- on propositions for insertion in Constitution, 114.
- resolution for bids on stationery, 117, 118.
- on motion to fix compensation of officers, 118.
- schedule for committees to meet, 118, 119.
- on adopting rules, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141.
- on memorial on suffrage, 142, 143.
- on Murdock's petition on prohibition, 143, 144.
- on report of committee on expenses, 146, 147.
- on order of business, 210.
- on resolution on stenographer, 223.
- on proposition and reports from committees, 225.
- on point of order on Wells's motion, 226.
- on amendment to sections of bill of rights, 230, 231, 232, 233, 234, 235, 236, 239, 241, 244, 245, 248, 249, 251, 252, 363, 1718.

VARIAN, CHARLES S. (Continued.)

Remarks—

- on point of order, 248, 249.
- on application of rule 20, 242.
- on report of committee on rules, 243, 268, 298.
- on motion to amend section 5, bill of rights, 252, 253.
- on motion to amend section 10, bill of rights, 260, 262.
- on section 9, bill of rights, 257.
- on motion to set a time for report of committee on elections and suffrage, 264, 265, 266.
- on a point of order, 266.
- on report of committee on rules, 264.
- on report of committee on rules, 268, 269.
- on report to increase committee on schedule, future amendments and miscellaneous, 269, 270.
- on motion to amend section 10, bill of rights, 274, 279, 280, 282, 288, 296.
- on motion to change hour of meeting, 301, 302, 303.
- on motion to fine absent members, 304.
- on motion to amend section 11, bill of rights, 305.
- on motion to amend section 12, bill of rights, 307, 308, 309, 310, 311, 312.
- on motion to amend section 13, bill of rights, 314, 315.
- on substitute for section 15, bill of rights, 320, 321, 322.
- on motion to strike out section 21, bill of rights, 323, 324, 325.
- on motion to amend section 23, bill of rights, 326, 328, 332, 335, 338.
- on motion to amend section 24, bill of rights, 339, 340, 344, 345, 346, 347, 349, 350, 351, 352, 353, 354.
- on section 29, bill of rights, 361.
- on motion to amend section 25, bill of rights, 365, 366.
- on motion to amend section 2, education and school lands, 367, 368, 383, 384, 385, 386, 389, 390, 391, 392.

VARIAN, CHARLES S. (Continued.)

Remarks—

- on motion to recommit article on education and school lands, 394, 395, 397.
- on motion to amend section 3, counties, cities and towns, 398, 399.
- on motion to amend section 5, counties, cities and towns, 400, 401, 403, 405.
- on point of order and yields his time to Roberts, 420.
- on motion to pass section 1, elections and rights of suffrage, 458, 474, 579, 595, 765.
- on motion to rise and report, 577.
- on motion to adjourn to some other place to hear Roberts, 578.
- on point of order on Crane's resolution to change place of meeting, 578.
- on motion to take a recess, 599, 600.
- on motion to amend section 10, elections and suffrage, 611.
- on motion to amend section 14, elections and suffrage, 616.
- on Richards's amendment to elections and suffrage, 618.
- on motion to amend section 22, bill of rights, 638, 639, 640, 641, 645, 647, 649, 650.
- on voting on bill of rights, 652.
- on motion to amend section 1, executive, 654, 655, 656, 657, 658.
- on motion to amend section 2, executive, 659, 660.
- on motion to amend section 3, executive, 660, 661.
- on motion to amend section 6, executive, 664, 1151, 1152.
- on motion to strike out section 7, elections, 665.
- on section 9, executive, 666.
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WARRUM, NOBLE, JR., Member from Logan, Cache County.

Appointed—

- on committee on judiciary, 66.
- on committee on municipal corporations, 66.

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WATSON, THOMAS S., Heber, Wasatch County.

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WELLS, HEBER M., Member from Fourth Precinct, Salt Lake City.

Appointed—

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WHITNEY, ORSON F., Member from Fourth Precinct, Salt Lake City.

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WILLIAMS, J. J., Member from West Jordan, Salt Lake County.

Appointed—

- on committee on water rights and irrigation, 66.
- on committee on schedule, future amendments and miscellaneous, 67.

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WILSON, JOHN R.

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